

W. B. L.



HANDY BOOK

ON

THE DOMINION AND ONTARIO FRANCHISES,

CONTAINING

THE FRANCHISE ACT (R. S. C. c. 5), AND THE AMENDING ACT OF 1889
(52 Vic. c. 9), AND THE ONTARIO MANHOOD SUFFRAGE ACTS,
(51 Vic. c. 4, O., AND 52 Vic. c. 5, O.),

WITH

*Notes and References to the Cases and Annotations
under the former Acts.*

BY

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"Let all people come in and vote fairly; it is to support one or the other
political party to deny any man's vote;" HOLT, C.J., in *Ashby v. White*, 2 Ld.
Raym. 958.

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The Editor's Works, cited in the notes to this edition, are :

The Canadian Franchise Act, 1885, (48 & 49 Victoria, chapter 40), with notes of decisions on the Imperial Acts relating to registration, and on the Provincial Franchise and Election Acts ; with an appendix containing the Provincial Franchises of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, and Prince Edward Island, pp. vi + 220, (cited in the notes as " the Act of 1885.")

Supplement to the Canadian Franchise Act, 1885, containing the Amending Act of 1886 (49 Victoria, chapter 3), with explanatory notes, pp. 52, (cited in the notes as " the Act of 1886 ").

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TABLE OF QUALIFICATIONS FOR THE DOMINION ELECTORAL FRANCHISE.

TITLE OF VOTER.	PERIOD OF OWNERSHIP OR POSSESSION OF PREMISES, OR RESIDENCE IN THE ELECTORAL DISTRICT.	QUALIFYING VALUE.
REAL PROPERTY FRANCHISE.		
(1) <i>Owner—</i> (a) in his own right . (b) in right of wife . (c) his wife owner ..	Ownership at the date of the revision of the list.	Cities, \$300. Towns, \$200. Other places, \$150.
(2) <i>Occupant—</i> (a) in his own right . (b) in right of wife . (c) his wife occupant.	Possession one year before being placed on the list, or application therefor.	
(3) <i>Farmer's Son—</i> (a) Father owner .. (b) Mother owner ..	Residence with father or mother on property one year before being placed on the list, or application therefor.	Value of farm or other property if equally divid- ed to give father and each son a vote according to the above ra- tios of value.
(4) <i>Owner's Son—</i> (a) Father Owner .. (b) Mother owner ..		
(5) <i>Tenant</i>	Possession one year before being placed on the list or application therefor.	\$2 monthly, or \$6 quarterly, or \$12 half-yearly, or \$20 yearly.
(6) <i>Tenant-farmer's Son*</i> (a) Father tenant .. (b) Mother tenant..	Possession under a five years' lease for one year before being placed on the list, or application therefor.	
(7) <i>Fisherman (owner)</i> ..	Residence and ownership at the date of the revision of the list.	\$150 land, boats, and fishing tack- le, or share in reg- istered ship.
(8) <i>Indian</i>	Possession at date of the revision of the list.	\$150 improvements.
INCOME FRANCHISE.		
(9) <i>Income</i>	Residence one year next before being placed on the list, or application therefor.	\$300 annually.
(10) <i>Annuitant</i>		\$100 annually, se- cured on land.

*See note (z) p. 23.

HANDY BOOK

ON THE

DOMINION AND ONTARIO FRANCHISES.

PART I.

THE DOMINION ELECTORAL FRANCHISE.

Revised Statutes of Canada, chapter 5.

An Act respecting the Electoral Franchise. (a)

[Proclaimed 24th January, 1887, to have effect on and after
1st March, 1887.]

HER Majesty, by and with the advice and
consent of the Senate and House of Com-
mons of Canada, enacts as follows:—

(a) This Act is a consolidation of the Acts of 1885 (48 & 49 Vic. c. 40) and 1886 (49 Vic. c. 3); but altered in some respects by the Commissioners for the Revision of the Statutes of Canada. By 49 Vic. c. 4, s. 8, the Revised Statutes are not to operate as new laws, but to be construed as a consolidation and as declaratory of the law as contained in the Acts for

SHORT TITLE.

Short title. **1.** This Act may be cited as *The Electoral Franchise Act.* (b) 48 & 49 V. c. 40, s. 1.

INTERPRETATION.

Interpretation. **2.** *In this Act, unless the context otherwise requires —

"Person." (s. 2, 1885.) (a) The expression "person" (c) means any male person, including an Indian, and excluding a person of Mongolian or Chinese race ;

"Owner" elsewhere than in Quebec, (s. 1, 1886.) (b) The expression "owner" when it relates to the ownership of real property situate elsewhere in Canada than in the Province of Quebec, means the proprietor either in his own right or

which they are substituted. But where the Revised Statutes are not in effect the same as the repealed Acts, the Revised Statutes are to prevail. The section and year given in the marginal notes indicate the original section and Act from which the clause has been taken. The notes referred to are those in the Editor's editions of the Franchise Act of 1885 and the Supplementary or Amending Franchise Act of 1886.

(b) A law for the registration of voters does not add a new qualification to the franchise, and is a highly reasonable and useful regulation: *Capen v. Foster*, 23 Am. Dec. 632. It should promote and not impair or destroy the elective franchise, or the rights of electors: *Ibid.* 646. All people should be allowed to come in and vote fairly; to deny any man's vote is to support one or the other political party: *Per Holt, C.J.*, in *Ashby v. White*, 2 Ld. Raym. 958. See note (t) p. 105 to the Act of 1885.

(c) See notes on this definition (c) to (f) pp. 40-43, to the Act of 1885.

*Altered by the Statute Revision Commissioners.

for his own benefit, or if such proprietor is a married man, it means the proprietor in his own right, or in the right of his wife, or the person whose wife is such proprietor, of freehold estate, legal or equitable, in lands and tenements held in free and common socage, of which such person or the wife of such person is in actual possession, or in respect of which such person is in receipt of the rents and profits; (d)

(c) The expression "owner" when it relates to the ownership of real property situate in the Province of Quebec, means "proprietor" or "usufructuary" (*usufruitier*) either in his own right, or in the right of his wife, of real property in "franc alleu," or in free and common socage; and when one person has the mere right of property or legal estate in any real property in the said Province, and some other person has the usufructuary enjoyment (*la jouissance et l'usufruit*) of the same property for his own use as aforesaid, the person who has the mere right of property or legal estate therein shall not have

"Owner" in
Quebec.
(1885.)

Usufruc-
tuary.

(d) This was an amendment made by the Act of 1886. Where a married woman seized of a freehold to her separate use conveyed the same by deed in 1883 (after the Imp. Act of 1882) to her husband in fee simple, such conveyance did not give the husband a title to the property so as to qualify him to be registered in respect of it: *McKillop v. Griffith*, Saint's Reg. Cas. 71. See notes (l) to (t) pp. 22-23, to the Act of 1885, and (e) to (g) pp. 6-8, to the Act of 1886.

the right of being registered as a voter or of voting under this Act in respect of such property, but in such case the person having the usufructuary enjoyment (*usufruit*) shall alone have the right of being registered as a voter and of voting in respect of such property under this Act ; (e)

“Tenant.”
(1885.)

(d) The expression “tenant” means as well a person who is bound to render to his landlord some portion of the produce or of the revenues or profits of the property leased, in lieu of rent, as a person who pays rent in money therefor ; (f)

“Occupant.”
(1886.)

(e) The expression “occupant” means a person in actual occupation of real property otherwise than as “owner,” “tenant,” or “usufructuary,” in his own right, or, in the case of a

(e) A person will not be disentitled to the franchise by reason of his permitting, as an act of kindness, another person to live on his premises, and in respect of which both were rated : *Campbell v. Chambers*, 20 Irish L. R. 239. See notes (d) to (k) pp. 18-22, to the Act of 1885.

(f) A tenant in order to establish his franchise is not bound to prove his landlord's title : *Powle v. Trevor*, 1 Colt. Reg. Cas. 82. A right by contract to have a 99 years' lease granted at a future time and on the performance of certain conditions, does not confer the franchise, although the intended lessee be let into possession pending the fulfilment of the conditions : *Trotter v. Watson*, L. R. 4 C. P. 434. A testator gave his son an equitable interest in a leasehold for his life ; *Held*, that as his equitable interest was subject to be defeated by his death, he was not entitled to vote : *Gainsford v. Freeman*, L. R. 1 C. P. 129. See notes (u) to (w) pp. 34-37, to the Act of 1885.

married man, in his own right or in the right of his wife, or whose wife is in such actual occupation, and who or whose wife receives to his or her own use and benefit the revenues and profits thereof; (g)

(f) The expression "father" includes grand-"Father." father, stepfather and father-in-law; and the

(g) This definition is taken from the Amending Act of 1886. See notes (x) to (a) pp. 37-40, to the Act of 1885, and (h) and (i) p. 8, to the Act of 1886. "'Occupation' is a technical term, and means legal, not mere physical, occupation:" *Per* Lord Coleridge, C.J., in *McClean v. Prichard*, 20 Q. B. D. 285. A canon of a cathedral who occupies his dwelling as a corporation sole and not as a member of the chapter corporation aggregate, is entitled to be registered as a voter: *Ford v. Harrington*, L. R. 5 C. P. 282. The appellant was an officer of guardians and was allowed the exclusive occupation of certain rooms in the workhouse. The master of the workhouse had rooms in another part of the building and had power to suspend or dismiss the officer; *Held*, that as the workhouse was not occupied by the guardians, such officer was an inhabitant occupier and entitled to be registered as a voter: *Adams v. Ford*, 16 Q. B. D. 239. A shop assistant occupied, by virtue of his employment, a room in a dwelling house belonging to his employers. Other assistants occupied other rooms, and all had a common dining room. The employers did not occupy the house, but had a caretaker who exercised a general control over it; *Held*, a sufficient inhabitancy of a dwelling, by virtue of service, to confer the franchise: *Stribling v. Halse*, 16 Q. B. D. 246. See also *Hasson v. Chambers*, 18 Irish L. R. 68; *Monaghan's Case*, *Ibid.* 285. 'Occupation of a dwelling-house by virtue of an office or employment in the service of the owners of such houses, is no qualification for the franchise: *McClean v. Prichard*, 20 Q. B. D. 285.

- "Mother."
(1886.) expression "mother" includes grandmother, stepmother and mother-in-law; (*h*)
- "Son."
(1886.) (*g*) The expression "son" includes a grandson, stepson and son-in-law; (*j*)
- "Farmer's son."
(1886.) (*h*) The expression "farmer's son" means and includes the son of an owner and actual occupant of a farm, or of a tenant and actual occupant of a farm under a lease for a term of not less than five years; (*k*)
- "Real property."
(1885.) (*i*) The expression "real property" means a lot or portion of a lot or other portion or subdivision of real property, or a house, store, office or building of any description whatsoever, or any portion thereof, situate upon real property, and forming part thereof; (*l*)

(*h*) The original definition was amended in 1886. See notes (*i*) p. 80, to the Act of 1885, and (*j*) p. 8, to the Act of 1886.

(*j*) This Amendment was made in 1886. See notes p. 45, to the Act of 1885, and note (*m*) p. 9, to the Act of 1886.

(*k*) This definition is from the Act of 1886. "Farming" is a business that has for its object the acquisition of gain: *Harris v. Amery*, L. R. 1 C. P. 148. See notes (*j*) to (*m*) pp. 45-46, to the Act of 1885, and (*k*) p. 8, to the Act of 1886.

(*l*) The words "lands occupied with a house" in s. 24 of the Reform Act (Imp.) refer not merely to contemporaneous occupation of the qualifying premises, but also to the user of them for a common purpose: *Sanders v. Smith*, 43 L. P. R. 438. The words "occupied therewith" do not refer to local contiguity, or property separated by a highway: *Collins v. Thomas*, 12 C. B. 639. See note (*w*) p. 51, to the Act of 1885.

(j) The expression "farm" means land actually occupied by the owner thereof and not less (1885.) in quantity than twenty acres; and the expression "farmer" means such owner thereof; (m)

(k) * The expression "the Province" means "The Province." that Province of Canada in which is situate the electoral district or portion of an electoral district for which the Revising Officer in the case or matter referred to is appointed; (1885.)

(l) The expression "city" means any place "City." incorporated as a city, or recognized as such, by or under any Act of the Parliament of Canada or of the Legislature of the Province in which it is situate; except the cities of Hull and St. Hyacinthe, in the Province of Quebec, which, for (1885.) the purposes of this Act, shall be deemed to be towns.

(m) The expression "town" means any place "Town." incorporated as a town, or recognized as such, (1885.) by or under any Act of the Parliament of Canada or of the Legislature of the Province in which it is situate;

(n) The expression "incorporated village" means any place incorporated as a village or "Incorporated village." (1885.)

(m) The latter words of this clause: "'farmer' means such owner," conflict with the definition of "farmer's son." See notes (g) to (h) p. 44, to the Act of 1885, and note to s. 3, sub-s. 7.

*Altered by the Statute Revision Commissioners.

recognized as such by or under any Act of the Parliament of Canada or of the Legislature of the Province in which it is situate ;

“ Parish.”
(1885.)

(o) The expression “ parish ” means any tract of land which is generally reputed to form a parish, whether such tract has or has not been wholly or in part originally erected into a parish by the civil or ecclesiastical (n) authorities, and which, on the twentieth day of July, one thousand eight hundred and eighty-five, existed as a territorial division ; (o)

“ Electoral
District.”
(1885.)

(p) * The expression “ electoral district ” means any place entitled to return a member to

(n) The term “ ecclesiastical ” applies to Quebec ; and recognizes parishes constituted by the ecclesiastical and civil authorities there up to the date of the Act of 1885. By the R. S. Que., Arts. 3371 to 3382, on the petition of a majority of the inhabitants to the Roman Catholic Bishop, or administrator of the diocese, he may according to ecclesiastical law, proceed to the canonical erection of any parish, or the division or union of parishes, etc.; and if within thirty days after notice, no opposition is made to the civil recognition of the canonical decree, or the opposition is dismissed, such canonical decree is to be sent to the Lieutenant-Governor, who may issue a proclamation under the great seal confirming, establishing, and recognizing the boundaries thereof. Further powers are given by Arts. 3386-3395.

(o) These words of limitation exclude from recognition under this Act, all “ parishes ” which have been erected, united, divided, or altered since the passing of the Act of 1885.

*Altered by the Statute Revision Commissioners.

the House of Commons of Canada, consisting of or comprising any city, town, county, township, parish, district or municipality, or portion thereof;

(q) The expression "actual value" or "value" ^{"Actual value."} means the then present market value of any ^{"Value."} real property, if sold upon the ordinary terms of ^{Proviso.} sale: Provided, that the assessment rolls, as ^(1886.) finally revised for municipal purposes, shall be *prima facie* evidence of the value of such property; (p)

(r) The expressions "voting" and "to vote" ^{"Voting."} mean voting and to vote at the election of a ^{"To vote."} member to serve in the House of Commons of ^(1885.) Canada;

(s) * The expression "list of voters" means, ^{"List of voters."} except when the first general list or an unrevised ^(1885.) list is especially mentioned or referred to, the list of voters, to be revised and completed under the provisions of this Act in each year, for each polling district of an electoral district, when finally revised, and includes a list corrected on appeal; (q)

(p) This amendment was made in 1886. See notes (r) to (v) pp. 48-50, to the Act of 1885, and (n) p. 9, to the Act of 1886.

(q) See notes (e) to (q) pp. 46-47, to the Act of 1885; and s. 5 of the Act of 1889.

*Altered by the Statute Revision Commissioners.

"Election." (1885.) (t) The expression "election" means an election of a member to serve in the House of Commons of Canada;

"The Revising Officer." (1885.) (u) * The expression "the Revising Officer" means any Revising Officer appointed under this Act for the electoral district or portion of an electoral district referred to in the context, and competent to do the thing required. 48-49 V. c. 40, s. 2, part; 49 V., c. 3, s. 1.

QUALIFICATION OF VOTERS.

Who shall be registered as voters if qualified as to— (1886.) **3.** Every person shall be entitled to be registered in any year upon the list of voters for the proper polling district of any electoral district or portion of an electoral district, and when so registered to vote, if such person (r)—

Age. (s. 2, 1886.) 1. Is of the full age of twenty-one years, (s) and is not by this Act or by any law of the Dominion of Canada, disqualified or prevented from voting, (t) and—

(r) This section is a consolidation and amendment of ss. 3 and 4 of the Act of 1885. See notes (a) p. 13 and (z) p. 54 to the Act of 1885, and (o) p. 10 to the Act of 1886.

(s) See notes (a) p. 54, to the Act of 1885.

(t) See notes (b) to (d) pp. 54-59, to the Act of 1885; and (g) p. 10, to the Act of 1886.

*Altered by the Statute Revision Commissioners.

2. Is a British subject by birth or naturali- Allegiance.
zation ; (u) and— (1886.)

3. Is the owner of real property within any Ownership.
city or part of a city in the electoral district, of (1886.)
the actual value of at least three hundred dollars,
or within any town or part of a town in the
electoral district, of the actual value of at least
two hundred dollars, or in any place in the elec-
toral district, other than a city or town, of the
actual value of at least one hundred and fifty
dollars ; (v) or—

4. Is the tenant of any real property within Tenancy.
the electoral district, under a lease, at a monthly (1886.)
rental of at least two dollars, or at a quarterly
rental of at least six dollars, or at a half-yearly
rental of at least twelve dollars, or at an annual
rental of at least twenty dollars, and has been in
possession thereof as such tenant for at least one

(u) See notes (e) and (f) pp. 59-64, and (r) p. 82, to the Act of 1885.

(v) Mere receipt of realty profits without a vested right to receive them will not confer the franchise : *Ashmore v. Lees*, 2 C. B. 31 ; s. p. *Simey v. Marshall*, L. R. 8 C. P. 269. Nor has a person who receives the emoluments of an office paid out of revenues derived from land, an interest in land which would qualify him to be registered : *Hall v. Lewis*, 10 W. R. 151. An estate of an uncertain tenure, not determinable at will, but which may enure for the life of the party, is a qualifying estate : *Beeson v. Burton*, 12 C. B. 647. See notes (g) to (i) pp. 64-67, to the Act of 1885 ; and (s) p. 11, to the Act of 1886.

As to pay-
ment of rent.

As to change
of tenancy.

As to pay-
ment in
money's
worth.

As to valua-
tion of pro-
perty on
assessment
roll.

year before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, and has really and *bona fide* paid one year's rent for such real property, at not less than the rate aforesaid; except when the rental is an annual one and for a larger sum than twenty dollars, in which case it shall be sufficient that at least twenty dollars of the last year's rent which accrued next before the time aforesaid shall have been paid: Provided always, that a change or changes of tenancy during the year shall not deprive such tenant of the right to be registered on a list of voters if such change or changes have been without any intermission of time between the tenancies, and if the several tenancies are such as would entitle the tenant to be registered on a list of voters had such tenant been in possession under any one of them, as such tenant, for the year next before the time aforesaid: Provided also, that in any place except a city, town or incorporated village, the rental hereinbefore mentioned may be payable in money, in kind, or in money's worth of like value; and provided further, that if on any revised or final assessment roll the amount of the tenant's rent is not stated, the fact that the real property in respect of which his name is entered on such roll as the tenant thereof is assessed on such roll in cities at three hundred dollars or more, or in towns at two hundred

dollars or more, or in any place other than a city or town at one hundred and fifty dollars or more, shall be *prima facie* evidence of his right to be registered on the list of voters, so far as such right depends on the amount of rental : (w) or—

5. Is the *bona fide* occupant of real property Occupancy. within any city or part of a city in the electoral (1886.) district, of the actual value of at least three hundred dollars, or within any town or part of a town in the electoral district, of the actual value of at least two hundred dollars, or in any place in the electoral district other than a city or town, of the actual value of at least one hundred and fifty dollars: Provided in every such case, that Proviso. such person has been in possession of such real property as such occupant for one year next be-

(w) A tenant under a lease will not cease to occupy as such by reason of his entering into a parol agreement whereby his landlord becomes a lodger in respect of a portion of the premises : *White v. Pring*, Saint's Reg. Cas. 116. Occupying tenant does not lose his qualification by reason of his landlord selling a portion of the premises so occupied : *Smerdon v. Tucker*, 8 W. R. 151. Different rents payable to different landlords, cannot be joined together so as to give a qualification : *Gadsby v. Barrow*, 7 M. & Gr. 21. A claimant's interest as a tenant of a house, is not to be limited by the landlord's clerk residing on the premises for their general protection : *Downing v. Luckett*, 5 C. B. 40. See notes (j) to (s) pp. 67-72, and (u) to (x) pp. 82-85, to the Act of 1885 ; and (u) to (a) pp. 11-23, to the Act of 1886.

fore his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, and is, and has been for such time, in the enjoyment of the revenues and profits thereof ; (x) or—

Residence
and income.
(1886.)

6. Is a resident within the electoral district, and derives an income of at least three hundred dollars annually from his earnings in money or money's worth, or partly in money and partly in money's worth, or from some profession, calling, office or trade, or from some investment in Canada, and has so derived such income and has been a resident of Canada for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters ; (y) or—

As a farmer's
son.
(1886.)

7. Is a farmer's son not otherwise qualified to vote in the electoral district in which his father's farm is situated ; and—

If father is
living.
(1886.)

(a) If his father is living, is and has been resident within the electoral district continuously, except as hereinafter provided, with his father

(x) See notes (t) to (x) pp. 73-76, and (y) and (z) pp. 85-86, to the Act of 1885 ; and (b) to (e) pp. 13-14, to the Act of 1886.

(y) See notes (y) to (c) pp. 76-78, and (a) p. 86, to the Act of 1885 ; and (g) and (h) pp. 14-15, to the Act of 1886. Reference is also directed to notes pp. 96-101, to the Act of 1885.

for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, if the value of such farm is sufficient, if equally divided among the father and one or more sons as co-owners, to qualify them to be registered as voters,—in which case the father and such one or more sons as so desire may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect thereof, and if the value of the farm of the father is not sufficient to give the father and each of such sons the right to vote in respect of such value, if equally divided among them, then the right to be registered as a voter and to vote in respect of such farm, shall belong only to the father and the eldest or so many of the elder of such sons, being so resident as aforesaid, as the value of such farm, if equally divided, will qualify; (z) or—

If value not sufficient to qualify all sons.

(z) The domicile of the father is the domicile of the son during his minority, while the son is under the direction and control of his father: *Levy's Case*, Bart. El. Cas. 47. The qualifications prescribed in this sub-section, by which a statutory right of voting at parliamentary elections is conferred upon "farmers' sons," apparently apply to, and only include the sons of "an owner and actual occupant of a farm." But the definition of "farmers' son" in 2 (h) (p. 14 ante) also includes the sons of "a tenant and actual occupant of a farm under a lease for a term of not less than five years." The terms used in this sub-section: "co-owner," (see definition of "owner"); and

If father is
dead.
(1886.)

(b) If his father is dead, is and has been resident within the electoral district continuously, except as hereinafter provided, with his father, or with his mother (after the death of his father), being the owner of the farm, in respect of which the right of voting is claimed by or for him, for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, if the value of the farm, in respect of which it is claimed that he should be registered as a voter, is sufficient, if equally divided among all the sons of such father as co-owners, to qualify them as voters under this Act—in which case such one or more sons as so desire may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect thereof, and if the value of such farm is not sufficient to give each of such sons the right to vote in respect of such value, if equally divided among them, then the

If value not
sufficient to
qualify all
sons.

omitting "co-tenants," "value of such farm," (see definition of "value"), and omitting "rent of such farm," and "mother, being the owner of the farm in respect of which the right of voting is claimed," make it very difficult to construe the sub-section so as to give tenant-farmers' sons the statutory right of voting; and this difficulty is not lessened by the definition given in s. 2 of "farm" and "farmer." See notes (b) to (f) pp. 86-87, to the Act of 1885; and (i) to (k) pp. 15-19, to the Act of 1886. Reference may be made to notes pp. 78-81, to the Act of 1885.

right to be registered as a voter and to vote in respect of such farm shall belong only to the eldest, or so many of the elder of such sons, being so resident as aforesaid, as the value of such farm, if equally divided, will qualify; (a) or—

(8) Is the son of an owner of real property (b) ^{As son of an owner other than a farmer.} in such electoral district, or portion of an electoral district, other than a farm, and is not otherwise qualified to vote in the electoral district in which such property is situated; and—

(a) If his father is living, is and has been ^{If father is living.} resident within the electoral district continuously, ^(1886.) except as hereinafter provided, with his father for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, if the value of the real property on which his father resides, and in respect of which his father is qualified to be registered as a voter as owner, is sufficient, if equally divided among the father and one or more sons as co-owners, to qualify

(a) See notes (g) and (h) p. 83 and (k) to (n) pp. 80-81, to the Act of 1885; and (l) to (p) pp. 18-19 to the Act of 1886. The proviso in the Act of 1885, as to residence up to the time of the election had been incorporated in s. 7 of this Act, but has been repealed by 52 V. c. 3, s. 13.

(b) The definition of "son of an owner of real property" contained in the Act of 1885, was repealed by the Act (s. 1) of 1886. See note (l) p. 45, to the Act of 1895.

If value not
sufficient to
qualify all
sons.

them to be registered as voters under this Act,—
in which case the father and such one or more
sons as so desire, may be so registered as voters ;
and if there are more such sons than one resi-
dent as aforesaid, and claiming to be registered
as voters in respect of such property, and if the
value thereof is not sufficient to give the father
and each of the sons the right to vote in respect
of such value, if equally divided, then the right
to be registered as a voter and to vote in respect
of such real property, shall belong only to the
father and the eldest or so many of the elder of
such sons, being so resident as aforesaid, as the
value of such real property, if equally divided,
will qualify ; (c) or—

If father is
dead.
(1886.)

(b) If his father is dead, is and has been resi-
dent within the electoral district continuously,
except as hereinafter provided, with his father,
or with his mother (after the death of his father),
being such owner, for one year next before his
being placed upon the list of voters, or the date
of the application for the placing of his name
on the list of voters, if the value of the real
property on which his father, or his mother
(after the death of his father) resided or resides,
and in respect of which such father would, if
living, be qualified to be registered as a voter as

(c) See notes (k) p. 89, to the Act of 1885 ; and (q) to (v)
pp. 19-20, to the Act of 1886.

owner, is sufficient, if equally divided among all his sons as co-owners, to qualify them to be registered as voters under this Act,—in which case one or more sons as so desire may be so registered as voters; and if there are more such sons than one resident as aforesaid, and claiming to be registered as voters in respect of such property, and if the value thereof is not sufficient to give each of such sons the right to vote in respect to such value, if equally divided, then the right to be registered as a voter and to vote in respect of such real property, shall belong only to the eldest, or so many of the elder of such sons, being so resident as aforesaid, as the value of such real property, if equally divided, will qualify; (d) or—

9. Is a fisherman, resident in the electoral district, and is the owner of real property and boats, nets, fishing gear and tackle, within any such electoral district, or portion of an electoral district, or of a share or shares in a registered ship, which together are of the actual value of at least one hundred and fifty dollars; (e) or—

(d) See notes (k) to (n) pp. 80-81, and (l) p. 83, to the Act of 1885; and (w) p. 21 and (i) to (p) pp. 15-19, and (b) to (e) pp. 23-24, to the Act of 1883. The proviso in the Act of 1885, as to residence up to the time of the election (s. 7 of this Act) has been repealed by the Act of 1889, s. 13.

(e) See notes (o) to (q) pp. 90-91, to the Act of 1885, and (x) to (y) pp. 21-22, to the Act of 1886.

If value not
sufficient to
qualify all
sons.

As fisherman
and owner.
(1886.)

As an annui-
tant.
(1886.)

(10) Is and has been for one year next before his being placed upon the list of voters, or the date of the application for the placing of his name on the list of voters, a resident within the electoral district, and in receipt of a life annuity secured on real estate in Canada, by virtue of a deed of donation or any other title equivalent thereto, of at least one hundred dollars in money or money's worth, or partly in money and partly in money's worth. (*f*) 49 V. c. 3, s. 2.

In a city or
town attach-
ed to a county
or riding and
vice versa.
(s. 3, 1886.)

4. The qualifications required of voters in respect of a city or town or portion of a city or town shall apply to voters in respect of a city or town, or a portion of a city or town attached for electoral purposes to a county or riding of a county in any electoral district; and the qualifications required of voters in respect of any place other than a city or town shall apply to voters in respect of any municipality or place not being a city or town, or a portion of a city or town, which is attached to or included for electoral purposes in a city or town, or portion of a city or town. (*g*) 49 V. c. 3, s. 3.

(*f*) An annuity derived from land, but not charged upon it, is insufficient to qualify : *Robinson v. Ange*, L. R. 4 C. P. 429. See note (*z*) p. 22, to the Act of 1886.

(*g*) Substituted for s. 5 of the Act of 1885. See notes (*r*) and (*s*) p. 91, to the Act of 1885; and (*a*) p. 23 to the Act of 1886.

5. * Whenever two or more persons are, either Joint tenancy as business partners, joint tenants, tenants in common, or by any other kind of joint interest, the owners, tenants or occupants of any lot, or portion of a lot, or other sub-division or parcel of real property in any electoral district, each of such persons whose share therein is sufficient in value, or in the case of tenants, in amount of rent, according to the provisions of this Act, to qualify such person as a voter in respect of real property, shall be entitled to be registered on the list of voters and to vote in respect of such share, as if it was held in such person's individual name, and not jointly with one or more. (h) 48-49 V. c. 40, s. 6. in common or other co-tenancy. (s. 6, 1885.)

6. * Persons qualified under this Act as voters Place of registry for voters. in respect of income shall only be entitled to be registered as voters and to vote in the polling (s. 7, 1885.)

(h) Members of a corporation who are entitled to share in the net profits derived from land have individually no legal or equitable estate in the land, and therefore no right to be registered as voters: *Acland v. Lewis*, 9 C. B. N. S. 32. Two persons who are joint tenants of a building, pay a single rent and accept receipts in their joint names, but occupy separate portions of the building, work portions of the land separately and the remainder jointly, are entitled to be registered: *Starr's Case*, 18 Irish L. R. 289. Description in rate-book of the members of a firm, by the name of the firm, without giving the name of each member, is a sufficient rating for the registration of them as voters: *Little v. Penrith*, L. R. 8 C. P. 259. See notes (t) to (c) pp. 91-96, to the Act of 1885.

*Altered by the Statute Revision Commissioners.

Property extending into more than one polling district.

district in which they reside at the time of registration; and persons qualified otherwise than in respect of income shall only be entitled to be registered as voters and to vote in the polling district in which the real property in respect of which they are qualified is situate; but if such property is partly within one polling district and partly within another, although all within one electoral district, the persons qualified in respect thereof shall be entitled respectively to be registered and to vote in that one of such polling districts in which they desire to be registered as voters. (i) 48-49 V. c. 40, s. 7.

7. [*Repealed by 52 V. c. 9, s. 13. (k)*]

Unregistered and disqualified persons

8. * Except the persons duly qualified and registered as voters under this Act, and except

(i) See notes (d) to (i) pp. 96-101 and pp. 76-78, and 86, to the Act of 1885; and (f) to (h) pp. 14-15, to the Act of 1886.

(k) The repealed section prescribed rules as to the residence of "farmers' sons" and "owners' sons," with their fathers, and as to their "occasional absence" from home, as a mariners, fishermen, or students; and will be found on pp. 101-102 of the Act of 1885. These provisions are substantially covered by the oaths to be taken by such voters at the polls under the *Dominion Elections Act*, R. S. C. c. 8. Where students had made oath that they had left their last place of residence, *animo non revertendi*, and had adopted their college residence and paid taxes there, though not certain of the duration of such residence: *Held*, qualified to vote in the college district: *Farlee v. Runk*, Bart. El. Cas. 91.

*Altered by the Statute Revision Commissioners.

as otherwise provided in the Dominion Elections Act, no person shall be entitled to vote at any election for a member of the House of Commons of Canada. (l) 48-49 V. c. 40, s. 10, part.

9. * No Indian in either of the Provinces of Manitoba or British Columbia, or in the District of Keewatin or the North-west Territories of Canada, shall be entitled to be registered on any list of voters or to vote, and no Indian on any reserve elsewhere in Canada who is not in possession and occupation of (m) a separate and distinct tract of land in such reserve, and whose improvements on such separate tract are not of the value of at least one hundred and fifty dollars, and who is not otherwise possessed of the qualifications entitling him to be registered on the list of voters under this Act, shall be entitled to be

(l) The word "registration," when applied to voters, is any list or register, or schedule containing names, the being on which lists, registers, or schedules, constitutes a prerequisite to voting: *Re Supervisors*, 1 Fed. R. 1. See notes (s) to (n) pp. 105-106, to the Act of 1885.

(m) The words "and does not hold a location ticket" are inserted here by 52 V. c. 9, s. 1. The votes of persons on an Indian Reserve cannot be allowed: *Daily v. Easterbrook*, Bart. El. Cas. 303. See notes on pp. 39, 42, 110, of Act of 1865.

*Altered by the Statute Revision Commissioners.

registered on any list of voters or to vote. (n)
48-49 V. c. 40, s. 11, part.

*Applicable to Provinces of British Columbia and
Prince Edward Island.*

Special pro-
visions as to
B. C. and P.
E. I.
(s. 9, 1885.)

10. * In the Provinces of British Columbia and Prince Edward Island, besides the persons entitled to be registered as voters and to vote under the foregoing provisions of this Act, every person who, on the twentieth day of July, one thousand eight hundred and eighty-five (o)—

Age.

(a) Was of the age of twenty-one years, and was not by this Act or by any law of the Dominion of Canada disqualified or prevented from voting; and—

(n) This section has been altered to a negative form by the Revisers; and has been amended under 52 Vic. c. 9, s. 1, as stated in note (m), and by the addition of a sub-section providing for the disqualification of persons found guilty of corrupt practices. See notes (c) to (f) pp. 109-111, to the Act of 1885. The other portions of the original section (11) of the Act of 1885, have been transferred to the Election Act, R. S. C. c. 8, s. 42.

(o) This limitation as to date, and change in phraseology made by the Revisers, excludes from the Dominion franchise persons who since the 20th July, 1885, have become entitled to vote at local elections under the provincial laws in force in British Columbia and Prince Edward Island respectively.

*Altered by the Statute Revision Commissioners.

(b) Was a British subject by birth or naturalization and resident in the Province, and was entitled to vote in the said Provinces respectively by the laws then severally in force in the same,—

Shall have a right to be registered as a voter and to vote, so long as he continues to be qualified to vote under the provisions of the said last mentioned laws, and no longer. (p) 48-49 V. c. 40, s. 9.

REVISING OFFICERS AND OTHER OFFICERS.

11. * The Governor in Council may, from time to time, appoint a proper person to be called "the Revising Officer," for each or any of the electoral districts, who shall hold office during good behaviour, but who shall be removable on address by the House of Commons, and whose duties shall be to revise and complete, in the manner hereinafter provided, the lists of persons entitled to be registered as voters under the provisions of this Act in such electoral district or portion of an electoral district for which he is appointed as hereinafter provided :

(p) See notes (l) to (r) pp. 102-105, to the Act of 1885, and also the franchise qualifications in British Columbia, p. 198, and in Prince Edward Island, p. 201, of the Act of 1885.

*Altered by the Statute Revision Commissioners.

To take oath of office.
(s. 13, 1885.) 2. * Every such officer shall, before entering upon his duties, take an oath of office before a judge of a court of record of the Province in which he is to act, in the form A, in the schedule to this Act,—which oath he shall forthwith thereafter cause to be filed with the Clerk of the Crown in Chancery at Ottawa :

Case of death or resignation, etc.
(s. 13, 1885.) 3. In the event of the death, resignation, removal, inability or refusal to act of any such Revising Officer, another may, in like manner, be appointed in his stead, who shall hold office under the same tenure, and with the same duties and powers.

Jurisdiction of R. O.
(s. 14, 1885.) 4. The same Revising Officer may be appointed for and be required to discharge the said duties in respect of more than one electoral district and may be appointed for a portion of any electoral district :

Deputy R. O. may be appointed.
(s. 17, 1886.) 5. * Any Revising Officer may, in case of illness or necessary absence, after leave granted therefor by the Governor in Council, appoint a deputy revising officer to act for him during such illness or absence ; and such appointment shall be subject to the approval of the Governor in Council :

Powers of deputy.
(s. 17, 1886.) 6. The deputy revising officer shall be possessed of all the qualifications, and during such illness or absence shall have all the powers of a Revising

*Altered by the Statute Revision Commissioners.

Officer, and if he is not a judge of any court his decision shall be subject to appeal as hereby provided. (q) 48-49 V. c. 40, s. 13 and s. 14, part; 49 V. c. 3, s. 18.

12. In every Province, except in the Provinces of Quebec and British Columbia, any person to be appointed a Revising Officer under this Act shall be either a judge or a junior judge of a county or district court in the Province, or a barrister of at least five years' standing at the bar of such Province; and in the Province of Quebec he shall be either a judge of the Superior Court for Lower Canada, or an advocate or notary of that Province of at least five years' standing; and in the Province of British Columbia he shall be either a judge of a superior court or of a county or district court, or a barrister of at least five years' standing, or a stipendiary magistrate. (r) 48-49 V. c. 40, s. 14, part.

Who may be appointed as such.

(s. 14, 1885.)

13. [*Repealed by 52 Vic. c. 9, s. 2 (s).*]

(q) The neglect of an election officer to take the prescribed oath, or to take it in a formal manner, or the action of unauthorized persons (without fraudulent intent) do not avoid an election or impair the title to the office of the candidate for whom the majority of votes was cast: *People v. Cook*, 59 Am. Dec. 451. See notes (g) and (h) p. 112, (a) p. 168, to the Act of 1885; and (g) to (i) p. 37, to the Act of 1886.

(r) See note (i) p. 113, to the Act of 1885.

(s) The repealed section gave the Revising Officer power to appoint a clerk. By s. 28, the revising officer's clerk

Bailiff and
constable
(s. 55, 1885.)

14. * The Revising Officer may also appoint, for the purpose of serving papers, posting up notices and attending and keeping order at courts and sittings held by the Revising Officer, and doing such other duties as are assigned to him by the Revising Officer, a competent person as a bailiff and constable, who shall be subject to the orders of the Revising Officer, and shall be removable by him at pleasure. (t) 48-49 V. c. 40, s. 55.

REVISION OF LISTS.

15. [Repealed and the following section substituted by 52 V. c. 9, s. 3 (u) :

may adjourn the Court when the Revising Officer is unable to attend. See note (d) as to the irregular adjournment of a Revision Court, p. 158, to the Act of 1885.

(t) See note (b) p. 169, to the Act of 1885. No provision has been made for the payment of these officers while attending the Revision Court; and no tariff of fees for their services in posting up or serving notices has been authorized or promulgated; and without such tariff their fees for services under the Act must be a matter of agreement with the parties employing them. But by s. 27, *post*, their fees when part of the "expenses of summoning witnesses," may, when they have been employed in such service, be recovered as costs.

(u) In consolidating this statute, the Revisers have omitted several sections of the Act of 1885 (ss. 15-21), which provided for the first revision of the voter's lists, and under

* Altered by the Statute Revision Commissioners.

“ 15. On or as soon as possible after the first day of June in each year, the Revising Officer shall cause the list of voters to be compared with the last assessment rolls, and with all the information that he can obtain from that source, and from provincial, municipal, and other official lists, records, and proceedings, and by means of solemn declarations made as hereinafter provided according to the statute relating to extra-judicial oaths, shall proceed to revise each list of voters then in force under this Act for the electoral district or portion of an electoral district for which he is appointed, and shall prepare two separate lists in like form as the original list, one entitled ‘ Names to be added and corrections to be made,’ and the other ‘ Names to be removed ’ :

which the then existing electoral districts were divided into polling districts. The omission of these sections, or the omission to legislate upon the matter, and the limited power given to the Revising Officers to alter existing polling sub-divisions prescribed by s. 23 *ante*, may affect the right to vote of persons resident in the unorganized territories or townships which have not heretofore formed part of “ any tract of land in which such polling district is situate.” There is no provision in the *Dominion Elections Act*, as in the *Ontario Elections Act* (R. S. O. 1887, ss. 7 (seventhly), and 74-77), allowing qualified persons in unorganized townships, where there are no assessment rolls or voters’ lists, to vote at Parliamentary elections. By s. 8 of this Act such persons will not be permitted to vote at Dominion elections unless “ *registered* as voters under this Act.” Where such persons reside within an existing polling district, and there is no assessment roll from which the Revising Officer can ascertain their names, application to have their names entered on the voters’ lists must be made by or for them by statutory declarations under sub-s. 2 of s. 2 of 52 Vic. c. 9, *post*. See notes pp. 113-132, to the Act of 1885, and pp. 30-33, to the Act of 1886.

“ 2. The solemn declaration in this section referred to may be made by any person claiming the right to be registered in the electoral district, or claiming that some other person therein named should be registered as a voter, and shall be to the effect that to his personal knowledge, or according to his information and belief (the grounds of which shall be stated), the person or persons in respect of whom such declaration is made, is or are entitled to registration : the qualification of the person claimed to be entitled to be added to the list shall be stated in the declaration, and such declaration, unless made by a person claiming that he, the declarant, is entitled to be added to the list, shall be made by an elector of the electoral district ; the Revising Officer shall receive all such declarations up to the time when he transmits the supplementary lists to the Queen's Printer and Controller of Stationery as hereinafter mentioned, and he shall exhibit to any person requiring to examine the same all such declarations deposited with him, and shall permit copies thereof to be taken :

“ 3. He shall enter on the former of such supplementary lists the names of all persons not already on the original list, who, according to the provisions of this Act, are entitled to have their names so entered, indicating in the proper column whether they are qualified in respect of real property, as owners, tenants, occupants or otherwise, and stating the numbers of the lots, portions of lots and concessions, streets or other available description of real property in respect of which they are qualified, and their post office addresses as nearly as can be ascertained by the said officer, or whether they are qualified in respect of income, and as to the sons of farmers or other owners' sons as aforesaid, and voters on income, stating also in such list in the proper columns thereof the residence and post office addresses of such persons as nearly as can be ascertained by him ; and he shall

also note on a separate part of such supplementary list any verbal or clerical corrections of the original list which seem necessary :

" 4. He shall enter on the latter of such lists the names of any persons whose names appear on the original list, and who are dead or who are not, according to the provisions of this Act, entitled to be registered as voters, stating the reason of such note :

" 5. He shall sign such two supplementary lists as Revising Officer and shall transmit them, not sooner than the first day of August to the Queen's Printer and Controller of Stationery, who shall at once cause the same to be printed, with the description of the polling districts to which they respectively relate, and shall transmit a sufficient number of copies thereof to the revising officer :

" 6. Such assessment rolls as aforesaid shall be *prima facie* evidence of value and qualification."]

16. [*Repealed and the following section substituted by 52 V. c. 9, s. 3.*

" 16. The Revising Officer shall not enter on such second supplementary list as to be removed from the original list the name of any person entered on the original list of voters, on the ground that the qualification of such person is incorrectly entered thereon, if it appears that such person is entitled to be registered on the list of voters as possessed of any of the qualifications set forth in this Act ; but the Revising Officer shall enter the name of such person on the first supplementary list, with the necessary corrections."]

17. [*Repealed and the following section substituted by 52 V. c. 9, s. 3 :*

" 17. Immediately after the Revising Officer has received the printed copies of such supplementary lists

from the Queen's Printer, he shall, for the purpose of making the final revision of the list, and after comparing and correcting the printed copies of the supplementary lists with the supplementary lists signed by him, certify the said supplementary lists as such officer, and on or before the first day of October in the year in which such supplementary lists are prepared, he shall publish the original list and such two supplementary lists by causing three copies of each to be posted up or exposed for inspection, one in each of three conspicuous public places in the polling district to which they relate, and to each of such copies shall be appended a notice in the form C, in the schedule to this Act, appointing a time and place for the final revision of each such list as hereinafter provided; and he shall deliver copies thereof to any persons applying for the same, upon payment thereof of a price proportionately sufficient to cover the cost of printing the same, but such price shall not exceed ten cents for each copy of the list for a polling district:

“ 2. The Revising Officer shall also deliver or transmit by prepaid letter to the mayor, reeve, deputy reeve, clerk or secretary-treasurer of every city, town, township, parish and village (and in Prince Edward Island to the secretary of every school district), one copy of the list for every polling district comprised within the city, town, township, parish, village or school district for which such mayor, reeve, deputy reeve, clerk or secretary-treasurer or secretary of a school district is appointed, and also to each postmaster a copy to be posted in his office of the list of the polling district in which such postmaster's post office is situated. He shall also deliver or transmit as aforesaid one copy of every list relating to the electoral district or portion of electoral district which he is appointed to revise, to the sheriff, clerk of the peace or county clerk, warden, judge of the county

court or district court of the county, union of counties or district, and, in the province of Quebec, of the Superior Court of Lower Canada of the district in which the electoral district or portion of an electoral district is situate for judicial purposes; and ten copies of every such list to the member or each of the members of the House of Commons for the said electoral district or portion of an electoral district and to the unsuccessful candidate or each of the unsuccessful candidates at the last election for the electoral district."]

18. [*Repealed by 52 V. c. 9, s. 13 (v).*]

19. The time to be fixed for the final revision of lists of voters under this Act, shall be not less than five weeks after the publication by posting up of the lists; and each sitting for such final revision shall include when practicable at least three and (except in cities and towns) not more than five polling districts; the place for the holding of the final revision shall be in one of the polling districts, the lists for which are to be so finally revised; and there shall be a sitting for such final revision in each city, town, township, parish, incorporated village and other known territorial division, and in the Province of Prince

Time and
place for final
revision.
(s. 6, 1886.)

In P. E. I.

(v) The repealed section provided for giving public notice in a newspaper of the time and place for the final revision of the voters' lists. The notice to the public of such revision will now be given through the notices attached to the copies of the voters' lists posted in public places, and furnished to the official persons named in the substituted s. 16, given in s. 8 of 52 V. c. 9.

Edward Island at least two sittings in each existing provincial electoral district except Charlottetown and Royalty and Georgetown and Royalty. (*w*)

2. [*Repealed and the following sub-section substituted by 52 V. c. 9, s. 4:*

"2. Any person desiring to object or to add to, or in any way to amend or correct the original list, or either of the supplementary lists, on the final revision, shall have the right so to object or to apply for the said addition, amendment or correction to the Revising Officer, if he has, at least two weeks before the day fixed for such final revision, deposited with or mailed to the revising officer, by registered letter, at his office or place of address, a notice in the form D, in the schedule to this Act; and in the event of any person desiring to object to any name on the original list or on the supplementary list containing the names proposed to be added, the person so objecting shall also give notice in writing at least two weeks before the day fixed for such final revision to the person whose name is objected to, and in the like form as to the revising officer, by delivering such notice to such person, or by mailing the same by registered letter to the post office address given in the list or to his last known post office address."]

Objections,
etc., may be
examined.
(s. 7, 1886.)

3. * The Revising Officer shall exhibit to any person requiring to examine the same all notices of additions or objections or declarations in

(*w*) This section is a consolidation of parts of ss. 26 and 35 of the Act of 1885, and s. 6 of the Act of 1886. See notes (*j*) p. 136, and (*k*) p. 148, to the Act of 1885; and (*j*) p. 27, to the Act of 1886.

*Altered by the Statute Revision Commissioners.

support thereof, deposited with or mailed to him under this section, and shall permit copies thereof to be taken. (x) 48-49 V. c. 40, s. 35, part; 49 V. c. 3, ss. 6 and 7.

20. * At the time and place named in the Holding said notice he shall hold open court for the said court for final revision of final revision, and shall hear and dispose of any lists and proceedings thereat. objection or complaint (y) and any application to add to, amend or correct the said list, of which (s. 27, 1885.) notice has been given as aforesaid, hearing the parties making the same, if they appear, and any evidence that is adduced before him in support of or in opposition thereto, and he shall either affirm or amend the list accordingly, as to him seems right and proper, attesting, with his initials, any changes, additions or erasures in the list: (z)

(x) This clause is supplementary to s. 29 *post*. See notes (c) p. 169, to the Act of 1885, and (k) p. 27, to the Act of 1886.

(y) The Act of 1889 (s. 5) defines "list," when used in this section, to include "the original list of voters, and the supplementary list of voters" mentioned in the Act, and may be read in connection with clause (s) of s. 2, *ante*.

(z) This section is a consolidation of ss. 27 and 36 of the Act of 1885. In a case decided under the Irish Registration Act, the appellant appeared on the list as an inhabitant householder, but was not so qualified, but was qualified in respect of land, and thereupon applied to amend his qualification. The Revising Officer held that the evi-

*Altered by the Statute Revision Commissioners.

If applicant
or complain-
ant does not
appear.

(s. 8, 1886.)

2. If at the time of the final revision, the person by whom any application to add to, amend or correct the list was made or notice of any objection or complaint was given, does not appear in support of the application, objection or complaint, or is desirous of withdrawing the same, the Revising Officer shall allow any other elector, who is desirous of so doing, to appear in support of such application, objection or complaint, or he may, without such substitution, hear any evidence that is available in support thereof and dispose of the matter accordingly. (a) 48-49 V. c. 40, s. 36, part; 39 V. c. 3, s. 8.

[The following sub-section is added by 52 V. c. 9, s. 5:]

dence was of a different qualification to that claimed, and refused to amend the list; on appeal his decision was affirmed: *Wilson v. Buchanan*, 20 Irish L. R. 213; s. p. *McConnell v. Graham*, 22 Irish L. R. 465. Where a person claims as an inhabitant householder, and so appears on the list, but at the revision it appears that his true right is that of a lodger, his name cannot be transferred to the proper list with his true qualification: *Cullen v. Patterson*, 18 Irish L. R. 274; s. p. *Simpson's case*, 20 Irish L. R. 284. See notes (p) to (v) pp. 139-142, and (l) and (m) p. 143 to that Act. A further provision has been added to this section by 52 V. c. 9, s. 5, providing that no application to add or remove a name from the list is to be dismissed "on account of error in the name, surname, or designation mentioned therein."

(a) See notes (l) and (m) p. 29, to the Act of 1886.

" 8. No application to add or to remove a name shall be dismissed on account of error in the name, surname or designation mentioned therein, provided such error is corrected on or before the final revision, and provided that the Revising Officer is satisfied that the application was reasonably certain and that no person concerned was misled by such error."]

21. [*Repealed and the following section substituted by 52 V. c. 9, s. 6 :*

" 21. After the lists for the several polling districts have been so finally revised, the Revising Officer shall proceed to correct the original list, by inserting in their proper places the names of the persons contained in the supplementary list first mentioned in section fifteen, as finally revised by him, and shall likewise make the corrections on the original list, as set forth in such supplementary list; he shall also strike out from the original list all the names contained in the supplementary list secondly mentioned in section fifteen, as finally revised by him, and shall, after giving reasonable notice and delay so as to enable errors to be corrected, certify the original list as so corrected in the form E, in the schedule to this Act :

" 2. Copies in triplicate of such revised and amended lists shall be prepared by the Revising Officer, who shall retain one copy and shall forward the two others by registered letter to the Clerk of the Crown in Chancery at Ottawa :

" 8. The Clerk of the Crown in Chancery, on receipt of all the said lists for any electoral district, shall, in the then next issue of the *Canada Gazette*, insert a notice in the form F, in the schedule to this Act,—on and after the publication of which notice the persons whose names are entered on the said lists as voters shall, subject to any correction or amend-

ment made by any judgment on appeal, as hereinafter provided for, be held to be duly registered voters in and for such electoral district :

“4. In the event of any such appeal, such lists, after the publication of the last mentioned notice in the *Canada Gazette*, shall apply to every election for such electoral district or portion of an electoral district, taking place before such appeal has been disposed of and the result thereof communicated to the Revising Officer, subject to the provisions of the Dominion Elections Act with respect to the counting of the ballot of any voter whose right to have his name registered as a voter upon any such list and to vote, or the exclusion of whose name from any such list as a voter is the subject of an undecided appeal :

“5. Every such list shall be so finally revised and certified, and the duplicate copies thereof forwarded to the Clerk of the Crown in Chancery at Ottawa, on or before the thirty-first day of December in each year :

“6. The Clerk of the Crown in Chancery shall immediately on the receipt of each of such lists, transmit one of the duplicates received by him to the Queen's Printer, who, as such lists are received by him, shall cause them to be printed and, after verification by the Revising Officer, he shall transmit a sufficient number of each to the Revising Officer and to the Clerk of the Crown in Chancery at Ottawa :

“7. A copy of the list so printed shall be sent to each member of the House of Commons for the electoral district, and one copy to each of the defeated candidates for such electoral district at the then next preceding election for such electoral district.”

Effect of
revised lists

22. * After the lists of voters have been so finally revised, or amended and corrected on

* Altered by the Statute Revision Commissioners.

appeal, if any such appeal takes place, and after they have been certified and brought into force as hereinbefore prescribed and until other lists are, in a future year, as herein provided, revised, amended and corrected on appeal, if any such appeal takes place, and are certified and brought into force in their stead, those persons only whose names are entered upon such lists as so revised, amended and corrected on appeal as aforesaid, if any, shall be entitled to vote at any election in the polling districts and electoral districts for which such lists are respectively made; and the said lists shall be binding on every judge and other tribunal appointed for the trial of any petition complaining of an undue election or return of a member to serve in the House of Commons of Canada. (b) 48-49 V. c. 40, s. 39.

23. * Whenever the number of voters in any polling district increases so as to exceed three hundred, or whenever the Revising Officer considers that the convenience of the voters would be promoted by a new and different sub-division, he shall, before proceeding to the final revision of the lists of voters in polling districts, then next required under this Act, by an order under his hand, in the form G, in the schedule to this

unless altered
on appeal or
superseded
by others.
(s. 39, 1885.)

Alteration of
polling dis-
tricts in case
of change in
population.
(ss. 21 and 41,
1885.)
(s. 11, 1886.)

(b) See notes (c) p. 46, (d) p. 146, and p. 153 of the Act of 1885.

*Altered by the Statute Revision Commissioners.

Act, divide every city, town, ward, parish, township or other municipal or corresponding division, or if there is no such municipal or corresponding division, any tract of land in which such polling district is situate, having, according to the lists of voters relating to it, more than three hundred voters therein, by well defined boundaries, such as streets, highways, side lines, concession lines or the like, into new polling districts, in such a manner as that the number of voters in the several polling districts in such electoral district, shall be as nearly equal as may be, and shall not in any one case exceed two hundred, and so again from time to time as like occasion requires, using for that purpose on all occasions the then last revised and corrected lists of voters in force under this Act; (c)

Publication
of order.
(s. 41, 1885.)

2. * The Revising Officer, after making such division shall forthwith publish such order by

(c) This section is a consolidation of ss. 21, 22, 23 and 41 of the Act of 1885, and provides for the alteration of any existing polling district; but it is not clear that the Revising Officer can establish new polling districts in the unorganized territories or townships not heretofore included in any existing polling district; *i.e.*, in which *no* "such polling district is situate." Such power was apparently covered by s. 21 of the Act of 1885, but that section has been omitted from this Act by the Statute Revision Commissioners. See notes (w) to (b) pp. 132-133, (s) to (u) p. 154, to the Act of 1885; and (s) p. 32, to the Act of 1886.

*Altered by the Statute Revision Commissioners.

posting up in some public place in each polling district a copy thereof, certified by him; and the Revising Officer in his then next revision of such lists shall make such revision upon the basis of such new division into polling districts;

3. Polling districts in the Province of Prince P. E. I. Edward Island may comprise parts of several (s. 22, 1885.) townships;

4. Each of such polling districts shall be numbered, with a local designation attached to such number, in and by the said order of the Revising Officer by which they are established, and such order shall forthwith, after the making thereof, be filed and thereafter kept by the Revising Officer for purposes of this Act;

(5) * Immediately after such new division into polling districts, the Revising Officer shall prepare from the lists of voters as preliminary revised by him, a separate list of voters for each such polling district, containing in alphabetical order the names of all voters qualified to be registered as voters and to vote in such polling district, and in the form B, in the schedule to this Act, and he shall sign the same as such officer. (d) 48-49 V. c. 40, s. 41; 49 V. c. 3, s. 11.

(d) This section is taken from one of the classes of sections omitted by the Revisers as mentioned in note (u) p. 36, *ante*. In the original Act the section was applicable to the first revision of the voters' lists.

*Altered by the Statute Revision Commissioners.

GENERAL POWERS AND DUTIES OF REVISING
OFFICERS.

Powers of
Revising
Officer for
making re-
vision.

(ss. 28 and 36,
1885.)

24. * The Revising Officer shall, for the purposes of the preliminary and final revisions of any lists of voters in polling districts, have all the powers of any court of record in the Province as to compelling the attendance of witnesses and their examination, the production of books and documents, and the taking of evidence under oath before him for any such preliminary or final revision, and such Officer shall have generally, for the purposes aforesaid, all the powers of any court of record in such Province. (e) 48-48 V. c. 40, s. 36, part.

Power of
Revising
Officer to
summon wit-
nesses and
obtain neces-
sary infor-
mation.

(s. 42, 1885.)

25. * The Revising Officer shall, on the application of any person who is supporting or opposing any objection, complaint or application which is to be considered at any of the courts or sittings for the final revision of any list of voters revised under this Act, issue a summons in the form H, in the schedule to this Act, directed to

(e) "This provision does not constitute the Revising Officer a Court of Record. It gives him the powers of a Court of Record. He is simply an officer with a special and limited jurisdiction, and as a general rule a mandamus would be granted to such an officer." *Per Proudfoot, J.*, in *Simmons and Dalton*, 12 Ont. R. 516. See notes (w) and (x) pp. 142-143, (l) and (m) pp. 149-151, to the Act of 1885.

*Altered by the Statute Revision Commissioners.

any person required by such applicant as a witness thereat, commanding such person to attend at such court or sittings, and also commanding such person, if such applicant so desires, to produce any books or papers in the possession or power of such person, and to give evidence at such court or sittings relating to any matter connected with any such revision; and in the event of such person not so attending, after being served with such summons and paid or tendered, with such summons, his proper witness' fees, as hereinafter provided, the Revising Officer may punish such person as for a contempt of a court of record;

2. * No such person shall be obliged to attend under any such summons unless he has been paid or tendered, with such summons, his proper witness' fees therefor, at the rates following, that is to say: if the witness is resident in the Province of Quebec, such fees shall be the same as are payable according to the tariff in force in the Superior Court of Lower Canada; if such witness is resident in the Province of Ontario, such fees shall be the same as are payable according to the tariff in force in any division court in the Province of Ontario; and if such witness is resident in any other Province of Canada, such witness' fees shall be the same as

Fees to be paid or tendered.
(s. 42, 1885.)

*Altered by the Statute Revision Commissioners.

are payable in the county or division courts in such Provinces respectively ;

Parties if
summoned to
obey the
summons.

(s. 12, 1886.)

3. * Provided that every person, in respect of the placing of whose name on the list of voters an application has been made, or notice of any objection or complaint has been given, and every person who gives notice of any such objection or complaint, shall, if he is resident within the polling district, the list for which is sought to be amended, or within ten miles thereof, and is not absent from such limits, upon being served with a summons in the said form H, obey the same without being tendered or paid any allowance for his expenses ;

Penalty in
default.

(s. 12, 1886.)

4. If any person summoned as in the next preceding sub-section provided, does not so attend in obedience to such summons, the Revising Officer may, in the absence of satisfactory evidence as to the reason of such non-attendance, or, if such person is an applicant to be placed on the list of voters, as to his right to be placed on such list, dismiss the objection or complaint, or strike the name of such person off the list of voters, or refuse to place his name thereon, as the case requires, or the Revising Officer may impose a fine not exceeding five

Altered by the Statute Revision Commissioners.

dollars on such person, or he may do both. (*f*)
48-49 V. c. 40, s. 42; 49 V. c. 3, s. 12.

26. * The (*g*) Revising Officer shall have power ^{Power of amendment or adjournment and of summary proceeding.} at any court or sitting held under this Act by him, to amend or give leave to amend, when he sees fit, any of the proceedings taken in reference to any list of voters, to direct notice to be given ^(s. 43, 1885.) to other persons, in respect of any question arising in respect of any such list, and to adjourn any court or sittings, on the hearing of any objection, complaint or application, to a future day; and he shall not be bound by strict rules of evidence or forms of procedure, in force in any court of record, but shall hear and determine all matters coming before him as such (*g*) Revising

(*f*) See notes (*v*) to (*z*) pp. 155-156, to the Act of 1885, and (*t*) to (*b*) pp. 33-36, to the Act of 1886. A further provision has been made by the Act of 1889 (s. 7) for furnishing copies of summonses.

(*g*) The original section in the Act of 1885 gave the Judge (in appeal) the same power of amendment as is here given to the Revising Officer; but the words "judge or" in the first and eleventh lines of the original section have been struck out by the Revisers; and s. 37, which defines the powers the Judge is to exercise when hearing the appeal, does not vest in him any power of amendment. When the qualification was described as "freehold rent-charge issuing out of freehold houses," and the evidence proved an ownership in fee subject to a long lease: *Held*, a fatal variance, and that the claim was not amendable:

*Altered by the Statute Revision Commissioners.

Officer in a summary manner, and so as in his judgment to do justice to all parties concerned. (h) 48-49 V. c. 40, s. 43.

How parties
and electors
may appear.
(s. 44, 1885.)

27. * The parties to any application before a (i) Revising Officer may appear by solicitor, counsel or agent; and any elector may appear, in person or by agent, at any court or sitting of

Nicholls v. Bulwer, L. R. 6 C. P. 281. The power of amendment by the revising barristers in England is more limited than that conferred upon Revising Officers in Canada, and notices of objection have been held non-amendable there on what appears to be the application of the strictest technical rules to the forms of notices served. Reference may be had to the following cases on these points:—*Melaugh v. Chambers*, 20 Irish L. R. 286; *Bridges v. Miller*, 20 Q. B. D. 287; *Humphrey v. Earle*, *Ibid.*, 294; *Wood v. Chandler*, *Ibid.*, 297; but see *Hartley v. Halse*, 22 Q. B. D. 200; *Clarke v. Tarish*, 18 Irish L. R. 207; *Lavery v. Kingsberry*, 20 Irish L. R. 387. See notes (a) to (g) pp. 156-160, to the Act of 1885.

(h) The duties of judges of election lists is to do whatever they are required under the laws to enable a citizen to qualify himself for voting; and to afford to all desirous of complying with the law the opportunity to become so qualified: *McKay v. Campbell*, 1 Sawyer, 374. The sufficiency of the evidence to prove a voter's interest in a qualifying property is a question for the revising barrister: *Burton v. Brooks*, 11 C. B. 41; and the Court will not review his decision as to the facts: *Collier v. King*, 11 C. B. N. S. 14.

(i) The words "judge or" have also been struck out of the original section by the Revisers; but s. 36 *post*, covers the omission.

*Altered by the Statute Revision Commissioners.

the Revising Officer in the electoral district in which he is such elector, in support of or in opposition to any objection, complaint or application; and the Revising Officer may award costs ^{Costs.} to or against any party to the application,—which costs shall only be for witness' fees and the expenses of summoning witnesses; and the said costs may be levied by order of the Revising Officer, by distress, in the same manner as distress is leviable upon a warrant on a conviction under the Act respecting Summary Proceedings before Justices of the Peace. (k) 48-49 V. c. 40, s. 44.

28. Whenever from illness or from other If Revising
casualty a Revising Officer is unable to hold any Officer is un-
sitting at the time appointed therefor, the clerk (l) able to act.
may adjourn the sitting to any hour on the (s. 16, 1886.)
following day to be named by him, and so from
day to day until the Revising Officer is able to
attend, or until other provision is made for the
holding of such sitting. (m) 48 V. c. 3, s. 16.

(k) It is not necessary that a person appearing at the Revision Court on behalf of a voter should have been personally instructed by him: *Ford v. Swedon*, 2 Times L. R. 13. See notes (h) to (j) pp. 160-161, and (x) p. 166, and (z) p. 167, to the Act of 1885; and (v) and (m) p. 29, to the Act of 1886.

(l) The Revising Officer's power to appoint a clerk is repealed by s. 2 of the Act of 1889. See note (s) to s. 13 *ante*.

(m) See notes (d) p. 158 and (k) p. 136, to the Act of 1885; and (f) p. 37, to the Act of 1886.

Revising
Officer to
keep list of
objections,
etc.
(s. 56, 1885.)

29. * The Revising Officer shall keep at his office in the electoral district a list of the notices of objections, proposed additions, amendments or corrections, and notices of appeal hereinafter provided for, sent in to him, respecting the said list of voters, under the provisions of this Act, which list, as well as the said notices, shall be open to inspection by any one desiring to inspect the same at any time before the said objections, proposed additions, amendments, corrections or appeals are disposed of by the Revising Officer or judge in appeal respectively. (n) 48-49 V. c. 40, s. 56.

As to lists
certified
while an
appeal is
pending.
(s. 47, 1885.)

30. If, at any time when the Revising Officer is required to furnish or certify any list of voters to any officer or person there is, with respect to such list, any appeal pending and undecided, or if there is any appeal with respect to such list in which the decision, if given, has not been notified to the Revising Officer, the Revising Officer shall furnish such list as then last revised, corrected and certified by him, noting thereon the names of all persons who have been retained on the list of voters, notwith-

(n) Many of the Revising Officers have not an "office in the electoral district" for the custody of these documents. See notes (c) p. 169, to the Act of 1885, and (k) p. 27, to the Act of 1886; and sub-s. 3 to s. 19, p. 42 *ante*.

*Altered by the Statute Revision Commissioners.

standing objection, the names of all persons who have been struck off the list of voters, and the names of all persons who have applied to be placed on the list of voters, and whose applications have been refused, and noting also thereon the names of all persons who have appealed from his decision ; and such list shall serve and avail, according to the provisions of this Act, for the election with reference to which it is furnished ; but whenever any appeal is decided, so as to require the correction of the list, and the formal order or judgment has been served upon him, he shall forthwith correct the list accordingly, and shall forthwith notify the Clerk of the Crown in Chancery of such formal order or judgment that he may correct the duplicate list in his hands accordingly, and the Clerk of the Crown in Chancery shall forthwith correct the same accordingly : Provided, that if the decision in appeal, requiring the correction of any list of voters, is notified to the Revising Officer by service of the formal order or judgment or otherwise, before the day of polling, a duly certified copy of the corrected list of voters, together with a copy of the formal order or judgment on appeal, as received by him, duly certified by such Revising Officer, shall be furnished before the said day by the Revising Officer to the returning officer, or to the deputy-returning officer for the polling district, the list of voters for which has

Correction when appeal is decided, and notice thereof.

Provision if decision is notified before day of polling.

been corrected upon the said appeal, which copy shall contain the correction in question, certified as hereinbefore provided, in which case the election shall take place upon such corrected list if received in time by such deputy-returning officer. (o) 48-49 V. c. 40, s. 47.

Certified
copies to
returning
officers.
(s. 40, 1885.)

31. * The Revising Officer shall furnish to the returning officer for his electoral district or portion of an electoral district, within forty-eight hours after demand of the returning officer therefor, one copy of the list of voters then in force for each polling district in the electoral district or portion of an electoral district, with a copy of the description of each such polling district, as contained in the order of the Revising Officer constituting the same, and then in force, each of which copies shall be duly certified by the Revising Officer. (p) 48-49 V. c. 40, s. 40, part.

32. [*Repealed and the following section substituted by 52 V. c. 9, s. 8:*

“ 32. The Revising Officer shall, at the request of any person applying for the same, furnish a certified copy of any summons issued by him under the provisions of this section on payment to him of a fee of five cents for each such copy.”

(o) See note (k) p. 162, to the Act of 1885.

(p) See notes (e) p. 146 and (q) p. 153, to the Act of 1885.

*Altered by the Statute Revision Commissioners.

"The Revising Officer, the Clerk of the Crown in Chancery and the Queen's Printer shall supply certified copies of the said lists to any person or persons applying for the same and paying therefor at the rate payable for copies of lists furnished under section seventeen of this Act; and every Revising Officer and the Clerk of the Crown in Chancery shall account to the Queen's Printer as respects all sales of lists made by them under this section :

"2. Every copy of a list of voters supplied by the Revising Officer, the Clerk of the Crown in Chancery or the Queen's Printer, and certified by any one of such officers as correct, in the form E, in the schedule to this Act, shall be deemed to be an authentic copy of such list."]

PROVISIONS RESPECTING APPEALS.

33. * In any case in which the Revising Officer is not also a judge of a court, as hereinbefore mentioned, any person who, under the foregoing provisions of this Act, has made any objection, complaint or application in respect of the list of voters for any polling district, or any person with reference to whom such objection, complaint or application has been made, who is dissatisfied with the decision of such Revising Officer in respect thereof, may give to the said Revising Officer or to his clerk, on the day of such decision, or within seven days thereafter, notice in writing of his intention to appeal from such decision, stating shortly in such notice the

Appeal from
decision of
Revising
Officer.
(s. 49, 1885.)
Notice
thereof.

*Altered by the Statute Revision Commissioners.

Transmis-
sion of notice
and copy of
decision to
judge.

Appellant to
have copy of
decision.

decision complained of, and at least one reason for appealing against it ; and such person shall, within the same time, cause a copy of such notice to be served upon the party, if any, in whose favor such decision was given, either personally or by leaving it at his residence or place of business, or by mailing the same in a registered letter addressed to his last known post office address ; and such Revising Officer shall forthwith after receiving the same transmit such notice, together with a copy of his decision appealed from to the court or judge, to whom such appeal is to be made, as hereinafter provided, and he shall sign such decision as such Revising Officer, (q) and he shall also, if so required, forthwith thereafter deliver to such appellant or to his solicitor, counsel or agent, and to the respondent, if any, or to his solicitor, counsel or agent, a certified copy of his said decision. 48-49 V. c. 40, s. 49.

(q) If the statement of the case be unsigned by the Revising Barrister, owing to his death before its transmission, and there was no satisfactory proof that he had finally approved of it, the Court will not hear the appeal: *Nettleton v. Burnett*, 7 M. & Gr. 35. A statement signed by the Revising Barrister after the statutory time cannot be received: *Agnew v. Fowler*, 1 Irish C. L. 462. The Court referred to the difficulty and inconvenience of Revising Barristers making affidavits in motions for rules to show cause in registration cases: *Re Bane*, W. Notes (1870) 200. See notes (m) to (r) pp. 163-164, to the Act of 1885.

34. Such appeal shall be—

Courts for
appeal.
(s. 53, 1885.)
In Ont., N. S.
N. B., Man.,
and P. E. I.

(a) * In the Provinces of Ontario, Nova Scotia, New Brunswick, Manitoba and Prince Edward Island, to the judge of the county court of the county or union of counties in which the polling district, in respect of which such appeal arises, is situate ;

(b) In the Province of Quebec, to the judge of the Superior Court, resident in or having judicial charge of the judicial district in which the polling district in respect of which the appeal arises is situate ;

(c) * In the Province of British Columbia, to the judge of the county court of the county or union of counties in which the polling district, in respect of which such appeal arises, is situate ; but in any electoral district in the said Province which is not included within the jurisdiction of any judge of a county court, to the Supreme Court of British Columbia,—which court shall assign the duty of trying any such appeal to some judge of the said court. (r) 48-49 V. c. 40, s. 53.

(r) The judges as citizens are bound to perform all the duties imposed on them by either the Dominion or Provincial Legislatures. If these duties are either incompatible or too onerous to be properly performed, provided neither Legislature has exceeded the limits of its legislative

*Altered by the Statute Revision Commissioners.

Judge to ap-
point time
and place for
hearing
appeal.
(s. 50, 1885.)

Notice to
parties.

If appellant
does not
appear, etc.

If appeal is
unopposed.

35. * The judge shall, upon receiving the said notice of such appeal and the said copy of the decision appealed from, appoint a convenient time and place for the hearing of the appeal, which place shall be within the municipality, parish or other local territorial division within which the polling district in respect of which the appeal arises is situate, of which time and place due notice shall be given to the Revising Officer and to the parties interested, in such manner as the court or judge appealed to orders ;

2. * If at the time and place so appointed, the appellant does not appear in person or by solicitor, counsel or agent, or if he so appears and abandons his appeal, the appeal shall be dismissed ;

3. * If the appellant appears, and neither the Revising Officer nor any other party to the appeal appears, or if the Revising Officer or any other party thereto appears and does not oppose the appeal, the judge, on sufficient proof or admission of service of the notice in manner above mentioned, shall allow the appeal, except in the case of an appeal by a person whose name is struck off the list of voters or

power, it would become the duty of the Provincial or Dominion Governments to suggest a remedy : *Per* Dorian, C.J., in *Bruneau v. Massue*, 23 L. C. Jur. 60.

*Altered by the Statute Revision Commissioners.

whose name the Revising Officer has refused to place thereon,—in which case the judge who hears the appeal shall require satisfactory evidence of the right of the appellant to have his name placed on the list of voters before he allows the appeal;

4. * If the Revising Officer or any other party to the appeal appears and opposes the appeal, or if the Revising Officer appears and opposes the appeal, and the other party thereto makes default in appearing, the judge, on being satisfied of the service of such notice in manner above mentioned, shall, either immediately, or at such time as he then appoints for the purpose, and at the same place, proceed to hear and decide the said appeal summarily, hearing the parties so appearing and receiving such legal evidence as is adduced before him respecting the facts in dispute, but without being bound by any technical rules of procedure;

Summary hearing and decision if the case is contested.

5. Such decision shall be subject to no further appeal;

Decision final.

6. * If any judgment is rendered on appeal requiring an alteration to be made in the certified list, a copy of the formal order or judgment shall be forthwith served upon the Revising Officer in

Notice of decision to Revising Officer.

*Altered by the Statute Revision Commissioners.

such manner as the judge orders. (s) 48-49 V. c. 40, s. 50, part.

Any voter
may appear
in person or
by agent.
(s. 50, 1885.)

36. * Any voter may appear in person or by solicitor, counsel or agent at any sitting of the judge who hears any such appeal in the electoral district in which he is such voter, in support of or in opposition to any appeal or application in respect of any appeal arising before such judge. (t) 48-49 V. c. 40, s. 50, part.

Powers of
judge as to
witnesses,
etc.
(s. 51, 1885.)

37. The judge shall, for the purposes of any such appeal, and in respect thereof, have all the powers conferred upon the Revising Officer under this Act, with regard to summoning witnesses, obtaining evidence, and punishing the persons summoned before him. (u) 48-49 V. c. 40, s. 51

Costs ; how
levied.
(s. 52, 1885.)

38. * The judge may award costs to or against any party to the appeal,—which costs shall only be for witness' fees and the expenses of summoning such witnesses ; and such costs may be levied by order of such judge, by distress, in the same manner as distress is leviable, under a conviction under the provisions of the Act

(s) See notes (s) to (w) pp. 165-166, to the Act of 1885.

(t) See notes (x) p. 166, to the Act of 1885 ; and (l) and (m) p. 29, to the Act of 1886 ; and (k) p. 55, *ante*.

(u) See notes to ss. 26 and 27, pp. 53-55, *ante*.

*Altered by the Statute Revision Commissioners.

respecting summary proceedings before Justices of the Peace. (v) 48-49 V. c. 40, s. 52.

GENERAL PROVISIONS.

39. * If, from any cause, the list of voters for any polling district is not revised and certified at the time when it should, under this Act, be sent to the returning officer at any election, then the last list of voters, revised and certified for such polling district, shall be sent to the returning officer and used at such election. 48-49 V. c. 40, s. 45.

Provision in default of list for any year. (s. 45, 1885.)

OFFENCES AND PENALTIES.

40. * Every officer and person who is by any law the custodian of any assessment roll or list of voters, prepared under the laws of any Province, or of any other list or document, or of any duplicate or certified copy thereof, which, under the foregoing provisions of this Act, the Revising Officer is required to obtain and use for the purpose of revising any list of voters under this Act, shall furnish the same, or a certified copy or copies thereof to any Revising Officer who applies for the same and as by him required; and every such officer or person who refuses or omits to furnish the same to such Revis-

Copies of certain lists to be furnished to Revising Officer. (s. 62, 1885.)

(v) See notes (r) p. 140, (i) and (j) p. 160, and (z) p. 167, to the Act of 1885.

*Altered by the Statute Revision Commissioners.

Penalty for
default.

ing Officer within a reasonable time, upon being paid or tendered the cost of preparing the same, according to the fees or rates allowed therefor by the laws in force in the Province to which such assessment roll, list or document relates, is guilty of a misdemeanor and shall be punishable accordingly. (w) 48-49 V. c. 40, s. 62.

Penalty for
malfeasance
under this
Act.
(s. 63, 1885.)

41. * Every person who is appointed to any office or employment under this Act, or required by this Act to do any matter or thing, shall, for every wilful misfeasance or for any wilful act of commission or omission contrary to this Act, forfeit to any person aggrieved thereby the penal sum of five hundred dollars, or such less sum as the jury, or judge, if the case may, by the law of the Province, be tried without a jury, before whom any action brought for the recovery of such penalty is tried, considers just to be paid to such person aggrieved; and the same shall be recoverable by such person with full costs of suit, by suit or action in any court of competent jurisdiction; but nothing herein contained shall interfere with any other remedy, civil or criminal, against such person. (x) 48-49 V. c. 40, s. 63.

As to other
remedies.

(w) Although a state officer derives his authority from the state, he is bound in the discharge of that duty to obey federal laws: *Ex parte Virginia*, 100 U. S. 339. See note (e) p. 172, to the Act of 1885.

(x) See note (f) p. 172, to the Act of 1885.

*Altered by the Statute Revision Commissioners.

42. Every person who is an agent within the meaning of the Indian Act, and who, either directly or indirectly, seeks to induce or compel any person who is an Indian or of part Indian blood, and qualified to vote only in respect of property forming part of a reserve, as defined by the Indian Act, to cause his name to be registered as a voter or to vote or refrain from voting at any election, (y) is guilty of a misdemeanor and liable to a fine not exceeding two hundred dollars, or to imprisonment for any term not exceeding six months, or to both, and he shall be disqualified from holding any office or place of emolument in the appointment of the Governor General or of the Superintendent General of Indian Affairs, for a term of two years from the date of his conviction. (z) 48-49 V. c. 40, s. 64.

Punishment of certain persons influencing Indians to be registered as voters, etc. (s. 64, 1885.)

APPLICATION OF ACT.

43. This Act shall not, except as herein expressly provided, apply to the North-west Territories. 49 V. c. 24, s. 70, part.

Application of Act.

(y) The offence here mentioned of "inducing or compelling a person who is an Indian or of part Indian blood, to vote or refrain from voting," is undue influence, and is a "corrupt practice" under R. S. C. c. 8.

(z) The punishment prescribed for persons guilty of a corrupt practice at elections, is disqualification from voting or holding any office under the Crown for seven years.

SCHEDULE OF FORMS.

A.

Oath of office of a Revising Officer.

(See Section 11.)

I, _____ of the _____
of _____, in the county of _____ and Province of _____
_____, the Revising Officer appointed under the
Electoral Franchise Act, in and for the electoral
district (or portion of the electoral district) of _____
in the Province of _____ do hereby
solemnly swear (or affirm) that I will well and
faithfully discharge the duties assigned to me
by the said Act without favour or partiality;
that I will place no name on the list of voters
for the said electoral district (or portion of the
said electoral district) or any of the polling
districts thereof, and will strike no name off the
same, unless I shall be satisfied that the same
should by law be placed on or struck off the
same; and that I will in all respects conform to

the said Act and the law to the best of my judgment and ability. So help me God.

Sworn before me, a judge of	} A.B. <i>Revising Officer for the electoral dis- trict (or portion of the electoral district) of</i>
the court of , in and	
for the Province of ,	
being a court of record, at	
the of in the county	
of and Province afore- said, this day of	
A.D., 18 .	

C.D.

A Judge, etc.,

48-49 N., c. 40, sch. form A.

B.

*[Repealed and new form substituted by 52 V.
c. 9 s. 10.]*

C.

*[Repealed and new form substituted by 52 V.
c. 9 s. 11.]*

D.

*Notice of Objection, Complaint or Application.
(See section 4 of 52 V. c. 9.)*

I, , of the of , in the
county of , in the electoral district of

, Province of , under the Electoral Franchise Act, hereby give notice that I will apply to have the list of voters for polling district No. of the said electoral district, for the year as preliminarily revised, amended, added to or corrected, *as the case may be; (then state the name or names objected to, with the grounds therefor, or the name or names desired to be added, with full particulars of their residences, addresses, occupations, qualifications, and if real property, where situated, and the grounds for applying to have them added, or the nature of any other proposed amendments or corrections to the list and the grounds therefor),* at the court (or sitting) to be held by the Revising Officer for the said electoral district (or portion of the said electoral district), at o'clock in the noon, on the day of , 18 , at , in the said electoral district.

Dated , 18 .

To the Revising Officer for
the said electoral district
(or portion of the said
electoral district), (or to
the person whose name is
objected to.)

(Name of complainant),

P. O. Address.

E.

[Repealed, and new form substituted by 52 V. c. 9 s. 12.]

F.

Notice to be published in the Canada Gazette by the Clerk of the Crown in Chancery.

(See section 6, of 52 V. c. 9.)

Notice is hereby given that I have received the lists of voters, finally revised, for all the polling districts of the electoral district of _____ for the year _____ under the Electoral Franchise Act.

Dated _____, 18 ____.

C. D.

Clerk of the Crown in Chancery at Ottawa.
48-49 V. c. 40, sch. form H.

G.

Order of Revising Officer dividing Electoral District or portion of Electoral District into Polling Districts.

(See section 23.)

I, _____ the Revising Officer for the electoral district (or portion of the electoral district)

of _____, Province of _____ under the Electoral Franchise Act, do hereby order and direct that the said electoral district) be and the same is hereby divided into polling districts, described as follows:—

Number one

Bounded on *(here fill in as particular a description, by concessions, streets, or other dividing lines, as possible, of the bounds of each polling district).*

(And so on as to others).

Dated _____, 18 ____.

A. B.,

Revising Officer for the electoral district (or portion of the electoral district) of

48-49 V. c. 40, sch. form F.

H.

Summons to witness.

(See section 25.)

To

You are hereby required and summoned personally to attend before me, the undersigned Revising Officer, on _____ the _____ day of _____, 18 ____ , at _____ o'clock in the _____ noon, at _____ in the county of _____, and Province of _____ and then and there to testify what you

know concerning the
then to be investigated by me as such Revising
Officer, and so on from day to day, and you
shall bring with you the books and papers here-
in described, that is to say :

And herein fail not at your peril.

Given under my hand at aforesaid, this
day of , 18 , under the Electoral
Franchise Act.

A. B.,

*Revising Officer for the electoral district (or
portion of the electoral district) of*

48-49 V. c. 40, sch. form J.

THE
ELECTORAL FRANCHISE AMENDMENT ACT, 1889.

52 Victoria—Chapter 9.

An Act further to amend the Revised Statutes,
chapter five, respecting the Electoral Franchise.

[Assented to 2nd May, 1889.]

Preamble.
R. S. C., s. 5.

IN further amendment of "*The Electoral Franchise Act*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 9
amended.

1. Section nine of "*The Electoral Franchise Act*" is hereby amended by inserting in the sixth line, after the word "of" where it first occurs, the words "and does not hold a location ticket for," (a) and also by adding the following subsection thereto:—

(a) Under the Indian Act, an Indian may apply to be enfranchised, and under s. 85 the Superintendent General after examining the evidence adduced by him may grant such Indian a location ticket as a probationary Indian, for the land occupied by such Indian. Votes given upon an Indian reservation cannot be received: *Re Nebraska*, Bart. El. Cas. 299. Trespassing on Indian lands is forbidden by the Indian Act. Trespassers on Indian lands, though in-

"2. No person found guilty of any corrupt practice under the provisions of the Dominion Elections Act, shall, during the seven years next after the time at which he is so found guilty, be entitled to be registered on any list of voters, subject, however, to the removal of such disqualification under the provisions of section ninety-nine of the said Act." (b)

No person convicted of corrupt practices to be registered.

habitants of the territory, cannot be recognized as legal voters: *Bennet v. Chapman*, Bart. El. Cas. 294. A verbal agreement with an Indian to work the land on shares is illegal: *Regina v. Hagar*, 7 C. P. 380.

(b) It was a moot point under the words "disqualified or prevented from voting by any law of the Dominion of Canada" in sub-s. 2 of s. 3 of R. S. C. c. 5 (p. 18 *ante*), whether the Revising Officer had jurisdiction to try in his Revision Court a charge of corrupt practices alleged against a voter; but the effect of this amendment is to declare that he has no such original jurisdiction. This sub-section affirms the Revising Officer's authority to strike off the name of any elector whose previous conviction for corrupt practices has been proved before him. The finding by an Election Judge that an elector is guilty of corrupt practices under the Dominion Elections Act carries with it a statutory disqualification which the Revising Officer would be bound to give effect to. In order to disqualify a person from being registered as a voter he must be found by the report of the Election Judge to have been guilty of corrupt practices; and it is not enough that the judge should state facts from which personal bribery or other corrupt practices might be inferred: *Grant v. Pagham*, 3 C. P. D. 80. Before an elector can be found guilty of corrupt practices he must have an opportunity of being heard; the disqualification attaches after conviction: *South Huron*, 29 C. P. 301. "The disqualifica-

Section 13 repealed.

2. Section thirteen of "*The Electoral Franchise Act*" is hereby repealed. (c)

tion, it is plain, arises by the fact of the petitioner (elector) having been found guilty after notice of the charge against him." *Per Wilson, C.J., Ibid, 307.* "The Act speaks of 'an opportunity of being heard,' and I think that does not merely mean that kind of opportunity which a witness has who is called up upon the spur of the moment, and who is subject to cross-examination; but it means an opportunity of being heard when he has had a fair warning of the charge, and is asked to meet it, and be heard by himself or his counsel: *Per Blackburn, J., Beverley, 1 O'M. & H. 176.* The report of an Election Judge that certain voters had been proved at the trial to have been guilty of corrupt practices, does not disqualify such voters: *Ibid.* The Dominion Elections Act (R. S. C. c. 8) in sections 84-99 defines corrupt practices and the punishments therefor. The period of disqualification of a candidate found guilty of corrupt practices is, by s. 96, seven years; and of persons other than candidates, is by s. 98, eight years. But the above amendment makes the period of disqualification in all cases seven years. An indictment charging a defendant generally with "corrupt practices" committed at an election is bad, as corrupt practices may mean any of several offences. But after verdict such defect is cured: *Regina v. Stroulger, 17 Q. B. D. 327.*

(c) The repealed section gave the Revising Officer authority to appoint a clerk. The Act in ss. 28 and 33 still recognizes the Revising Officer having a clerk. The appointment of clerks of courts properly belongs to courts of law: *Ex parte Hennen, 13 Peters 258.* When during the absence of the Revising Officer, notice of application to have a name struck off was left with the clerk at his office, it was held that such service was a sufficient depositing with the Revising Officer to satisfy the statute; and that such notice did

3. Sections fifteen, sixteen and seventeen of the said Act are hereby repealed and the following substituted therefor :—

Sections 15,
16 and 17 re-
pealed; new
sections

“ 15. On or as soon as possible after the first of June in each year, the Revising Officer shall cause the list of voters to be compared with the last assessment rolls, (d) and with all the information that he can obtain from that source, and from provincial, municipal, and other official lists, records, and proceedings, and by means of solemn declarations made as hereinafter provided according to the statute relating to extra-judicial oaths, (e) shall proceed to revise each list of

Revision of
lists and pro-
ceedings
therefor.

not require personal service on such officer : *Re Simmons and Dalton*, 12 Ont. R. 505.

(d) The determination of the essential element of the right to vote,—that of assessment—is primarily made by the assessor and finally determined by the [Revision] Court in the completion of the assessment lists, and that determination expressed by the act of assessment itself becomes incorporated into and a part of the list of voters : *Re Supervisors*, 1 Fed. Rep. 1. The decision of the County Judge in assessment cases is final. If the assessor errs he can be set right by the Court of Revision, or by an appeal to the County Judge : *London Fire Insurance Co. v. City of London*, 11 Ont. R. 592. See notes (r) p. 48, (j) and (k) p. 114, to the Act of 1885; and (q) p. 31, to the Act of 1886.

(e) Declarations annexed to a claim are *prima facie* evidence of qualification, even where the claimant does not appear in support of his claim; and in the absence of rebutting evidence such claim should be allowed : *Nuth v. Tamplin*, 8 Q. B. D. 247. Such declarations must be sent within the

R.S.C.c.141. voters then in force under this Act for the electoral district or portion of an electoral district for which he is appointed, and shall prepare two separate lists in like form as the original list, one entitled 'Names to be added and corrections to be made,' and the other 'Names to be removed';

Supplementary lists.

Declaration, by whom to be made.

" 2. The solemn declaration (*f*) in this section referred to may be made by any person claiming the right to be registered in the electoral district, or claiming that some other person therein named should be registered as a voter, (*g*) and

statutory time, and they cannot be received as evidence of other matters than those warranted by the statute: *Dakin v. Fraser*, 16 Q. B. D. 252. Declarations cannot be received as evidence to amend the description of qualification by substituting other premises than those described in the list, or adding other premises so as to make up the necessary qualification: *Porrett v. Lord*, 5 C. P. D. 65.

(*f*) Persons residing in the unorganized townships may, by means of the declarations here authorized, be added to the lists. But this amending Act has not remedied the defect pointed out in note (*u*) p. 36, *ante*. Under the Ontario Act, it has been held that an owner of real estate of the qualifying value in any of the unorganized townships, has a right to vote at any polling district within any of such unorganized townships where he may happen to be on the day of election; and his right to vote is not restricted to the township in which his property is situated: *Muskoka and Parry Sound*, 1 Ont. E. C. 197. See notes (*f*) to (*i*) pp. 147-148, to the Act of 1885; and (*g*) to (*r*), to the Act of 1886.

(*g*) The section is not very clear as to the persons whose declarations may be received. The first part of the section

shall be to the effect that to his personal knowledge, or according to his information and belief (the grounds of which shall be stated,) (*h*) the

speaks of "any person (1) claiming the right to be registered, or (2) claiming that some other person therein named should be registered," but further on it says, "and such declaration, unless made by a person claiming that he, the declarant, is entitled to be added to the list, *shall be made by an elector of the electoral district.*" It will be difficult to harmonize these discordant provisions, unless they can be construed to mean that a declaration in support of his own claim to be registered, may be made by one not on the list of voters; but that a declaration in support of the claim of other persons, who are not on the list of voters, must be made by "an elector of the electoral district." The section can scarcely be construed to mean that declarations in support of "the claims" of persons to be registered, who are not on the list, may be made by "any person claiming the right to be registered," but that declarations stating "the qualification" of the persons claiming to be entitled, must be made by "an elector." See note (*b*) p. 5, to the Act of 1886, and (*m*) on "judge-made law," p. 17, under the English Act of 1878. Declarations made by agents, who were not personally interested in the matter of the appeal, have been received in the English Registration Courts: *Porrett v. Lord*, 5 C. P. D. 65; *Pickard v. Baylis*, 5 C. P. D. 235.

(*h*) This is similar to Chy. Order 259, Con. R. 609, and will be a wholesome check on rash statements. A statement in an affidavit by plaintiff's agent that he had the management of all the plaintiff's business in this country, was held sufficient to show his means of knowing of the plaintiff's ownership of certain property mentioned in such affidavit: *McEwen v. Boulton*, 2 Chy. Ch. 399. Evidence on information, and belief though generally admissible on interlocutory applications, is not admissible on proceedings which finally decide the rights of the parties; and the party

To be received by Revising Officer.

person or persons in respect of whom such declaration is made, is or are entitled to registration; the qualification of the person claimed to be entitled to be added to the list shall be stated in the declaration, and such declaration, unless made by a person claiming that he, the declarant, is entitled to be added to the list, shall be made by an elector of the electoral district; the Revising Officer shall receive all such declarations up to the time when he transmits the supplementary lists to the Queen's Printer and Controller of Stationery as hereinafter mentioned, (i) and he shall exhibit to any person requiring to examine the same all such declarations deposited with him, and shall permit copies thereof to be taken; (k)

Entries on first of such lists.

“ 3. He shall enter on the former of such supplementary lists the names of all persons not

against whom it is adduced is not bound to contradict it. But if in the Court below he deals with the evidence as admissible, he may be precluded from objecting to it in the appellate Court: *Gilbert v. Endean*, 9 Ch. D. 259.

(i) Such declarations must be sent to the proper officer within the statutory time, or they cannot be received as evidence of the facts declared to: *Dakin v. Fraser*, 16 Q. B. D. 252.

(k) Should the declarations inaccurately describe the name or property of the party sought to be registered, the Revising Officer would have authority to receive evidence of the correct description. A contrary rule is recognized in England. See ss. and notes (p) to (v) pp. 139-142, and (a) to (g) pp. 156-160, to the Act of 1885.

already on the original list, who, according to the provisions of this Act, are entitled to have their names so entered, indicating in the proper column whether they are qualified in respect of real property, as owners, tenants, occupants or otherwise, and stating the numbers of the lots, portions of lots and concessions, streets or other available description of real property in respect of which they are qualified, and their post office addresses as nearly as can be ascertained by the said officer, or whether they are qualified in respect of income, and as to the sons of farmers or other owners' sons as aforesaid, and voters on income, stating also in such list in the proper columns thereof the residence and post office addresses of such persons as nearly as can be ascertained by him; and he shall also note on a separate part of such supplementary list any verbal or clerical corrections of the original list which seems necessary; (l)

“4. He shall enter on the latter of such lists ^{And on the second.} the names of any persons whose names appear on the original list, and who are dead and who are not, according to the provisions of this Act, entitled to be registered as voters, stating the reason of such note; (m)

(l) See notes (m) to (s) pp. 115-119, to the Act of 1885.

(m) The disqualifications from voting are stated in note (d) p. 57, to the Act of 1885. See also note (h) p. 147, to the Act of 1885; and note (b) p. 10, *ante*.

How printed. "He shall sign such two supplementary lists as Revising Officer and shall transmit them, not sooner than the first day of August to the Queen's Printer and Controller of Stationery, who shall at once cause the same to be printed, with the description of the polling districts to which they respectively relate, and shall transmit a sufficient number of copies thereof to the Revising Officer ;

Assessment
rolls evi-
dence.

"Such assessment rolls as aforesaid shall be *prima facie* evidence of value and qualification.

Erroneous
entry to be
corrected.

16. The Revising Officer shall not enter on such second supplementary list as to be removed from the original list the name of any person entered on the original list of voters, on the ground that the qualification of such person is incorrectly entered thereon, if it appears that such person is entitled to be registered on the list of voters as possessed of any of the qualifications set forth in this Act ; but the Revising Officer shall enter the name of such person on the first supplementary list, with the necessary corrections. (n)

(n) The evidence on which these corrections may be made is provided for in s. 15 as assessments rolls, provincial, municipal and other official lists, records and proceedings, and solemn declarations under R. S. C. c. 141. See notes (p) p. 130, (c) p. 159, and (n) p. 165, to the Act of 1885, and (n) p. 30, to the Act of 1886.

"17. Immediately after the Revising Officer has received the printed copies of such supplementary lists from the Queen's Printer, he shall, for the purpose of making the final revision of the list, and after comparing and correcting the printed copies of the supplementary lists with the supplementary lists signed by him, certify the said supplementary lists as such officer, and on or before the first day of October in the year in which such supplementary lists are prepared, he shall publish the original list and such two supplementary lists by causing three copies of each to be posted up or exposed for inspection, one in each of three conspicuous public places in the polling district to which they relate, and to each of such copies shall be appended a notice in the form C, in the schedule to this Act, (a) appointing

Supplementary lists to be certified.

Publication of lists.

Notice to be attached.

(a) Where forms contain more conditions or particulars than are warranted by the enacting clauses of a statute the excess may be disregarded. "If the enacting part and the schedule cannot be made to correspond, the latter must yield to the former:" *Per Lord Cottenham, L.C., in Re Baines*, 1 Cr. & Phil. 46. "It would be quite contrary to the recognized principles upon which Courts of Justice construe Acts of Parliament, to enlarge the conditions of the enactment, and thereby restrain its operation, by a reference to the words of a mere form given for convenience' sake in a schedule, and still more so when that restricted operation is not favorable to the subject, but the reverse:" *Per Lord Penzance, in Dean v. Green*, 8 P. D. at p. 89. "Where forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate them:" Interpretation Act, s. 7, (44).

Copies on application.

a time and place for the final revision of each such list as hereinafter provided ; and he shall deliver copies thereof to any persons applying for the same, upon payment therefor of a price proportionately sufficient to cover the cost of printing the same, but such price shall not exceed ten cents for each copy of the list for a polling district ;

Copies to be sent to certain officials.

“ 2. The Revising Officer shall also deliver or transmit by prepaid letter to the mayor, reeve, deputy-reeve, clerk or secretary-treasurer of every city, town, township, parish and village (and in Prince Edward Island to the secretary of every school district), one copy of the list for every polling district comprised within the city, town, township, parish, village or school district for which such mayor, reeve, deputy-reeve, clerk or secretary-treasurer or secretary of a school district is appointed, and also to each postmaster a copy to be posted in his office of the list of the polling district in which such postmaster's post-office is situated. He shall also deliver or transmit as aforesaid one copy of every list relating to the electoral district or portion of electoral district which he is appointed to revise, to the sheriff, clerk of the peace or county clerk, warden, judge of the county court or district court of the county, union of counties or district, and, in the Province of Quebec, of the Superior Court of Lower Canada of the district in which

the electoral district or portion of an electoral district is situate for judicial purposes; and ten copies of every such list to the member or each of the members of the House of Commons for the said electoral district or portion of an electoral district, and to the unsuccessful candidate or each of the unsuccessful candidates at the last election for the electoral district." (p) And others.

4. Sub-section two of section nineteen of the said Act is hereby repealed and the following substituted therefor :— Section 19 amended.

"2. Any person (q) desiring to object or to add to, or in any way to amend or correct the original list, or either of the supplementary lists, on the final revision, shall have the right so to Notice of objections and amendments.

(p) See notes pp. 119, 131, 133-135, to the Act of 1885.

(q) A notice of objection may be given by one whose name is on the list of voters though the objector is incapable of voting by reason of his being reported by the election judge as guilty of corrupt practices: *Barr v. Chambers*, 22 Irish L. R. 264. The status of a petitioner in an election petition is not destroyed by his being proved guilty of corrupt practices: *Dufferin* 4 App. R. 420, H. E. C. 529. The sufficiency of the description of objector's plan of abode is a question of fact for the revising barrister: *Thackway v. Pitcher*, L. R. 2 C. P. 100. The subsequent ratification of an unauthorized signature to a claim will not sustain the claim: *Kearns' Case*, 20 Irish L. R. 382. See notes (g) to (n) pp. 124-129, and (k) to (o) pp. 136-139, to the Act of 1885.

Notice to person objected to.

object or to apply for the said addition, (r) amendment or correction to the Revising Officer, if he has, at least two weeks before the day fixed for such final revision, deposited with (s) or mailed to the Revising Officer, by registered letter, at his office or place of address, a notice in the form D, in the schedule to this Act; (t) and in the event of any person desiring to object to any name on the original list or on the supplement-

(r) It is the duty of the Revising Barrister before allowing claims of parties to be registered to require proof to his satisfaction that due notice of such claims had been given as required by the Act: *Re Sale*, 43 L. T. R. 635.

(s) Notice of application to the Revising Officer was left with his clerk during the absence of the Revising Officer on Monday, 28th June, and on his return during the afternoon of that day he was told of the service, and that if he did not consider that sufficient the notice would be procured again and served on him personally, but he said what was done was sufficient; *Held*, that as the last day for service for the sittings for the final revision of the lists was Sunday, the 27th June, but that under s. 2 sub-s. 2 (now *Interpretation Act*, s. 7 sub-s. 27) the time for service of said notice was extended, and that the service on Monday, 28th June, was in time; *Held*, also that the service on the clerk was sufficient to satisfy the statute, and the adoption by the Revising Officer of the action of the clerk was equivalent to personal service, if such was required by the statute: *Re Simmons and Dalton*, 12 Ont. R. 505.

(t) "It is important that these notices should strictly follow the statutory form, and I think that the Court ought not to establish a kind of *cy-près* doctrine for the benefit of careless objectors:" *Per* Pollock, B., in *Humphry v. Earle*, 20 Q. B. D. 294. When a freeholder on the register is

tary list containing the names proposed to be added, the person so objecting shall also give notice in writing at least two weeks before the day fixed for such final revision to the person whose name is objected to, (u) and in the like form as to the Revising Officer, by delivering such notice to such person, or by mailing the same by registered letter to the post office address

objected to the Revising Barrister has no power to entertain any other objection than that stated in the notice of objection: *Smith v. Woolston*, 4 C. P. D. 73. The omission of the proper date from the notice of objection is fatal to its validity: *Freeman v. Newman*, 53 L. J. Q. B. 108. A notice by a claimant to be registered differed from the form given in the Act, in that the declaration omitted the date of the attestation; *Held*, that the omission of the date was material, although the date could have been ascertained from the claim signed by the claimant, and the claim was therefore invalid: *Smith v. Chandler*, 22 Q. B. D. 208.

(u) A Revising Officer having declined to entertain an application to strike the name of one D. from the list of voters on the ground that service of the notice to D. of the application was not proved, and that the notice to the Revising Officer was not duly served, it appeared that no copy of the notice to D. was kept, and no notice to produce the original was served, but it was proved by two witnesses that a notice to D. filled up on a printed form with his name, address, and the objection to his vote, had been mailed to him by a prepaid registered letter in time for the proper Revision Court, and the certificate of registration was produced, although the witnesses had no particular knowledge of the particular notice to D.; *Held*, that in the absence of evidence to the contrary such proof was sufficient: *Re Simmons and Dalton*, 12 Ont. R. 505.

given in the list or to his last known post office address." (v)

Section 20 interpreted.

5. The expression "list," wherever it occurs in section twenty of the said Act, includes the original list of voters and the supplementary list of votes in this Act before mentioned;

2. The following sub-section is hereby added to the said section twenty :—

When application shall not be dismissed.

"3. No application to add or to remove a name shall be dismissed on account of error in the name, surname or designation mentioned therein, provided such error is corrected on or

(v) Where an objector serves a notice by post he must show by evidence, probable or demonstrative, that his notice would in the ordinary course of post reach its destination in time. But where the transit was casual and uncertain, and the notice did not reach the party until after the time limited, the service was insufficient: *Doogan v. Colquhoun*, 20 Irish L. R. 361. Where notices of objection were sent by post to a post office where there was no postal delivery, and the notice could not have reached the party objected to unless he sent to his local post office; *Held*, that the notices had been duly served: *Adams v. Buchanan*, 18 Irish L. R. 292. Where proper notices of objection were mailed in time, but where taken out of the post office by orderlies who brought and distributed them in the barracks, it was held that such notices were not delivered in the ordinary course of post: *Childe v. Cox*, 20 Q. B. D. 290. Notice of objection sent by post is not vitiated by the fact of the postmaster having received it out of the duly appointed business hours: *Paddon v. Whiteway*, 1 C. B. N. S. 62.

before the final revision, and provided that the Revising Officer is satisfied that the application was reasonably certain and that no person concerned was misled by such error." (*w*)

6. Section twenty-one of the said Act is hereby repealed and the following substituted therefor:—

"21. After the lists for the several polling districts have been so finally revised, the Revising Officer shall proceed to correct the original list, by inserting in their proper places the names of the persons contained in the supplementary list first mentioned in section fifteen, as finally revised by him, and shall likewise make the corrections on the original list, as set forth in such supplementary list; he shall also strike out from the original list all the names contained in the supplementary list secondly mentioned in section fifteen, as finally revised by him, and shall, after giving reasonable notice and delay so as to enable errors to be corrected (*x*) certify

Section 21 repealed; new section.

Correction of lists.

Lists to be certified.

(*w*) Where the number of the voter's property was erroneously described on the register of voters, the Revising Barrister should correct it to the proper number: *Bendle v. Watson*, L. R. 7 C. P. 163. On a change of qualification a voter must send in a fresh claim, although his name may be on the list in respect of the old qualification: *Burton v. Gery*, 5 C. B. 7.

(*x*) This provision will enable parties after the work of the Revision Court is over and before the lists are finally

the original list as so corrected in the form E, in the schedule to this Act : (y)

Disposal of
copies.

“2. Copies in triplicate of such revised and amended lists shall be prepared by the Revising Officer, who shall retain one copy and shall forward the two others by registered letter to the Clerk of the Crown in Chancery at Ottawa :

Publication
by Clerk of
the Crown in
Chancery.

“3. The Clerk of the Crown in Chancery, on receipt of all the said lists for any electoral district, shall, in the then next issue of the *Canada Gazette*, insert a notice in the form F, in the schedule to this Act,—on and after the publication of which notice the persons whose names are entered on the said lists as voters shall, subject to any correction or amendment made by any judgment on appeal, as hereinafter provided for, be held to be duly registered voters in and for such electoral district :

Its effect.

Effect of
notice in
Gazette as to
appeals.

“4. In the event of any such appeal, such lists, after the publication of the last mentioned notice in the *Canada Gazette*, shall apply to every election for such electoral district or portion of an electoral district, taking place before

certified, to examine the same and make application to the Revising Officer to correct “ errors ” in the list.

(y) The procedure prescribed by this section is more precise and less elaborate and cumbersome than that prescribed by the original sections 27 and 37 of the Act of 1885.

such appeal has been disposed of and the result thereof communicated to the Revising Officer, subject to the provisions of the Dominion Elections Act, with respect to the counting of the ballot of any voter whose right to have his name registered as a voter upon any such list and to vote, or the exclusion of whose name from any such list as a voter is the subject of an undecided appeal :

“ 5. Every such list shall be so finally revised and certified, and the duplicate copies thereof forwarded to the Clerk of the Crown in Chancery at Ottawa, on or before the thirty-first day of December in each year : When lists shall be finally certified, etc.

“ 6. The Clerk of the Crown in Chancery shall immediately on the receipt of each of such lists, transmit one of the duplicates received by him to the Queen's Printer, who, as such lists are received by him, shall cause them to be printed and, after verification by the Revising Officer, he shall transmit a sufficient number of each to the Revising Officer and to the Clerk of the Crown in Chancery at Ottawa : As to printing of lists.

“ 7. A copy of the list so printed shall be sent to each member of the House of Commons for the electoral district, and one to each of the defeated candidates for such electoral district at the then next preceding election for such electoral district.” Copies to be sent to certain persons.

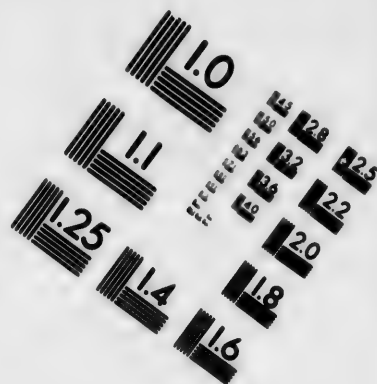
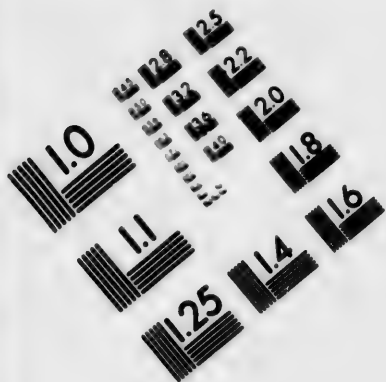
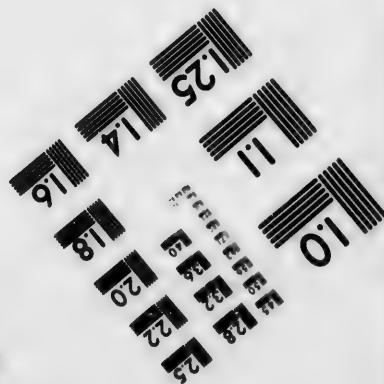
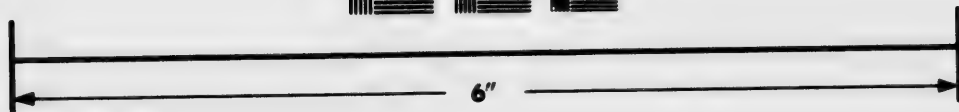
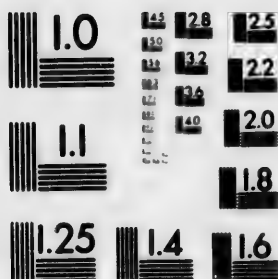


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Section 25
amended.

7. Section twenty-five of the Electoral Franchise Act, is hereby amended by adding the following sub-section thereto :—

Copies of
summons.

“ 5. The Revising Officer shall, at the request of any person applying for the same, furnish a certified copy of any summons issued by him under the provisions of this section on payment to him of a fee of five cents for each such copy.”

Section 32 re-
pealed ; new
section.

8. Section thirty-two of the said Act is hereby repealed and the following substituted therefor :—

Copies of
lists to be
furnished on
payment.

“ 32 The Revising Officer, the Clerk of the Crown in Chancery and the Queen's Printer shall supply certified copies of the said lists to any person or persons applying for the same and paying therefor at the rate payable for copies of lists furnished under section seventeen of this Act ; and every Revising Officer and the Clerk of the Crown in Chancery shall account to the Queen's Printer as respects all sales of lists made by them under this section :

To be deemed
authentic
copies.

“ 2. Every copy of a list of voters supplied by the Revising Officer, the Clerk of the Crown in Chancery or the Queen's Printer, and certified by any one of such officers as correct, in the form E, in the schedule to this Act, shall

be deemed to be an authentic copy of such list." (z)

9. Declarations made for any of the purposes of the said Act as amended by this Act or any other amending Acts may be made before any mayor, reeve, deputy-reeve or alderman or municipal councillor, or before any other person thereunto authorized, and all such persons shall for such purposes be justices of the peace. (a)

10. Form B, in the schedule to the said Act, is hereby repealed and the following substituted therefor :—

Before whom
declarations
may be made.

Form B, re-
pealed ; new
form.

"B."

LIST OF VOTERS—18 —

For the Polling District No. _____ of the (Municipality
of, or the City or Town, or as the case may be) of
_____ in the Electoral District
of _____

(z) The abstract of the votes returned to the office of the Secretary of State, though obtained after the statutory period, is evidence. A certificate from the proper office and officer and bearing the state seal is evidence of its authenticity : *Vallandigham v. Campbell*, Bart. El. Cas. 229.

(a) Prior to this amendment it had been held in a criminal case that a commissioner for taking affidavits was not authorized to take such declarations under R. S. C. c. 141.

LIST OF POST OFFICES, WITH THEIR REFERENCE NUMBERS.

- | | | |
|------------------|------------------|-----------------|
| 1. Campbelltown. | 4. Iona. | 7. Port Talbot. |
| 2. Cowal. | 5. Iona Station. | 8. Tyrconnel. |
| 3. Absent. | 6. Largie. | 9. Wallacetown. |

POLLING DISTRICT No. .

Comprising (as the case may be)

Explanation of abbreviations in the columns "Qualification":—O., owner; T., tenant; F. S., farmer's son; S. O., son of owner; I., income; Oc., occupant; F. & O., fisherman and owner.

No.	Name in Full. (Surname first.)	Post Office Address.	Occupation.	Qualification.	Description of Property or Residence.
1	Atkinson, Alfred ...	9	Carpenter ...	S. O.	Lot 21, con. 3.
2	Adams, Wm. Henry	8	Farmer	O.	N. W. pt. lot 23, con 6.
3	Asseltine, Pierre...	1	Stonemason.	T.	Pt. 20, brkn. ft., Rideau
4	Benjamin, Ernest.	7	Bricklayer ...	I.	667 Wellington st. w.
5	Bissonnette, Paul..	4	Fisherman ...	F. & O.	Pt. 34, range No. 10.
6	Brennan, Edward.	2	Plasterer	I.	8 Broad st.
7	Campion, Francis.	3	Farmer	F. S.	Lot 21, con. 4.
8	Cooper, Charles ...	5	Printer	T.	Pt. 10, east George st.
9	Clegge, William ...	6	Painter	Oc.	Lot 14, Elgin st.

Dated , 18 .

A. B.,

Revising Officer for the Electoral District (or part
of the Electoral District) of .

11. Form C, in the schedule to the said Act, is Form C, repealed and the following substituted therefor :—

“C.”

*Notice by Revising Officer of Final Revision of
Lists of Voters for each Polling District.*

The Revising Officer for the electoral district (or portion of the electoral district) of _____ in the Province of _____, under the Electoral Franchise Act, hereby gives notice that he will hold a court (or sitting) on the _____ day of _____, 18____, at _____ o'clock in the _____ noon at _____ in the _____ of _____, in the said electoral district for the final revision of the list of voters for polling district No. _____, of the said electoral district.

All notices of objections and claims for additions to, or amendment or correction of the said list, or of the supplementary lists relating thereto, with the grounds therefor, and the name, addition and post office address of the person objecting to any name on any such list, or claiming to add to, amend or correct any such list in any other respect, must be delivered to the said Revising Officer at _____, or sent to him by registered letter addressed to him at _____.

or Queen's Printer for Canada, as the case may be) do hereby certify that the foregoing list, consisting of pages, is a true copy of the list of voters for polling district number in the electoral district of as finally revised (or as finally revised and corrected on appeal, as the case may be) for the year under the Electoral Franchise Act.

Dated

18

A. B.,

*Revising Officer for the electoral district
(or portion of the electoral district)
of , or C. D.,
Clerk of the Crown in Chancery,
or B. C.,
Queen's Printer for Canada.*

13. Sections seven (b) and eighteen (c) of the said Act are hereby repealed.

Sections 7
and 18 re-
pealed.

(b) This section required farmers' sons and owners' sons to be resident with the father from the time of the revision of the list to the time of the election, and prescribed the limit of "occasional absence."

(c) This section provided for publishing notice of the final revision in some newspaper within the municipality or polling district.

See 7 Edw. VII. c. 4.
See 7 Edw. VII. c. 6.

PART II.

See 10 Edw. VII. c. 88.
Ss. 9 & 10.

ONTARIO MANHOOD FRANCHISE.

51 Victoria—Chapter 4.

(Ontario.)

An Act to establish Manhood Suffrage for the
Legislative Assembly.

Revised
R.S.O. 1887
Ch. 9. sec. 2.

[Assented to 23rd March, 1888.]

HER MAJESTY, by and with the advice and
consent of the Legislative Assembly of the
Province of Ontario, enacts as follows :—

See 8 Edw. VII.
c. 3.

1. This Act may be cited as "*The Manhood Suffrage Act*," (a) and shall go into force on the
1st of January, 1889.

(a) Prior to the early statutes regulating the franchise for Parliamentary Elections in England, a franchise had been sanctioned by the common law of Parliament, which was more liberal and more nearly akin to "manhood suffrage" than it has been since 1429, when the first Franchise Act was passed. By that common law franchise, "every inhabitant and commoner in every county had a voice in the election of knights, whether he were a freeholder or not, or had a freehold of only one penny, sixpence, or twelve pence by the year:" *Prynne's Brevia*

Parliamentaria (1662), 187. "The common law placed all elections in the hands of the people:" *Hudson on Irish Elections*. And the only qualification required of Parliamentary electors was residence in the county: 1st Henry V., c. 1. The return by sheriffs on many Parliamentary writs in 18 Edward II. is that "the election has been made by the assent and will of the men of the whole county:" *Palgrave's Parliamentary Writs*, 319. In 1429 the Franchise Act, 8 Henry VI., c. 7, defining "what sort of men shall be choosers and who shall be chosen knights of Parliament," established the rule that an elector's political intelligence and qualification to vote for members of Parliament should be gauged by the value of his landed property; and it required that electors should be residents and have a property qualification as freeholders to the value of 40s. in the county." The preamble of the Act recites—with a supercilious contempt for the lower classes or disfranchised voters, the *profanum vulgus*, and with a refreshing plainness of speech not to be found in modern Franchise Acts—that "whereas the election of knights of shires to come to the Parliaments of our lord the King in many counties of the realm of England have now of late been made by very great, outrageous and excessive number of people, dwelling within the said counties, of the which most part was of people of small substance and of no value, whereof every of them pretended a voice equivalent, as to such elections to be made, with the most worthy knights and esquires dwelling within the said counties, whereby manslaughter, riots, batteries and divisions among the gentlemen and other people of the same counties shall very likely rise and be, unless convenient and due remedy be provided in this behalf." The Act then provides that the electors shall be persons dwelling and resident and who shall expend 40s. by the year and above. "It is not clear whether any landed or freehold qualification was requisite to entitle a person to vote at elections before this statute:" *Simeon on Elections*, 13. "This was the first statute which required a qualification of landed property, or, to speak in a manner more

2. Property or income qualification for voters Property as respects the Legislative Assembly (b) is ^{qualification} ~~abolished~~.

strictly constitutional, which deprived persons in a very low and dependent situation of the exercise of the privilege of voting: " *Ibid.* 59. " This statute first required the electors to have qualification of freehold to a certain value, thereby, as some think, restoring the aristocratic spirit of the constitution, which had been lately broken in upon; or as others assert, making an inroad upon the liberties of the people by depriving the lower class of a privilege they had always enjoyed before: " *Heywood on Elections*, 23. " The statute (8 Henry VI.) presents a strong contrast to the legislation of the preceding reigns. The policy of former Parliaments had been to secure the whole body of the county population in the free and independent exercise of their electoral rights. Several reasons are assigned in the preamble for restricting the franchise. The true grievance appears to have been not the mere number of the lower class of electors, but that their votes were of equal weight with those of persons of gentle (gentil) condition: " *Cox's Antient Parliamentary Elections*, 113. The theory of our political system is that the ultimate sovereignty is in the people, from whom springs all legitimate authority. In England, where the people do not debate in a collective body, but by representation, this sovereignty consists in the election of representatives: *1 Blackstone's Com.*, 170. " In the election of knights, citizens and burgesses consists the exercise of the democratical part of our constitution; for in a democracy there can be no exercise of sovereignty except by suffrage, which is the declaration of the people's will. In all democracies, therefore, it is of the utmost importance to regulate by whom and in what manner the suffrages are to be given: " *Ibid.*

(b) The extracts given in the prior note show that prior to the first Franchise Act of 1429, 8 Henry VI., c. 7, the parliamentary or common law franchise of England gave to all the resident inhabitants of each county, whether free-

abolished except as hereinafter provided. (c)

holders or not, the right to vote, thus showing that the earliest legal recognition of the right of election was based on "Manhood Suffrage." By the Act referred to, the "aristocratic spirits" of Parliament declared that the ownership of land worth 40s. a year should be the standard for electoral intelligence in counties, but it left the common law or local charters to regulate the electoral qualifications of borough voters. In 1832 the Imperial Reform Act effected a great revolution in the law affecting electors, which was followed in 1867, 1878 and 1884 by Acts largely extending the franchise, and under which seven classes of voters in counties and five classes in boroughs have now the right to vote at parliamentary elections in England. In Canada, up to 1853-4, the county franchise—still keeping to a landed qualification—was limited to "owners," and the city and town franchise to "owners" and "tenants." Then "occupants" were added. In 1873 the electoral capacity of persons assessed for "income" was recognised. But it was in 1877 that the first partial abandonment of the old statutory "landed property qualification" was made by the admission of "farmers' sons" to the franchise. In 1885 a further extension in the same direction was sanctioned, giving some additional legislative recognition to the old common law franchise of England. Modern political legislation has at last succeeded in repealing the Franchise Act of 1429, and has come back in some measure to the common law franchise of "Manhood Suffrage;" so that now the people's right of suffrage no longer depends upon their being classified under an elaborated series of titles, having a minimised and vicarious grasp on a "property qualification," and registered under rules which in some instances were inharmonious and technical.

(c) The exceptions apply to "unenfranchised Indians, of whole or part Indian blood, not residing among Indians or on an Indian Reserve," (s. 7); and to voters in the unorganized municipalities, townships and places in the electoral districts mentioned in s. 8.

See 1
Ex. v.
C. 2.
part 4.
127

entered on the list of voters (*f*) proper to be used, be entitled to vote at elections to serve in the Legislative Assembly of this Province: (*g*)

law of Parliament a person bribed to give his vote at an election is rendered incompetent to give his vote at that election: *Orme on Elections*, 111. (7) *Receipt of alms*. Persons who are in the receipt of alms are disqualified by the law of Parliament: *Edwards v. Lloyd*, 20 Q. B. D. 302.

(*f*) In elections under a law which imperatively requires registration as a qualification for voting, if the registration has been denied by the wrongful act of the registering officer, it has been held that a voter's only remedy is by an action against the registering officer for damages: *McCrary on Elections*, 13. The object of registration on the voters' list is to furnish an official alphabetical register of all persons who are possessed of the requisite qualifications of voters. It is to enable all persons interested in the election to have a check at hand at the time of polling the votes: *Regina ex rel. Dundas v. Niles*, 1 U. C. Cham. 198. And so that the voter may be easily identified when he tenders his vote at the polls: *Lincoln (Berston's Case)*, 2 App. R. 324. "Let all people come in and vote fairly. It is to support one or the other political party to deny any man's vote. If such an action comes to be tried before me I will direct the jury to make him pay well for it; it is denying a man his English right, and if this action be not allowed a man may be for ever deprived of it. It is a great privilege to choose members of Parliament, as they are to bind a man's life and property by the law they make:" *Per Lord Holt, C.J.*, in *Ashby v. White*, 2 Ld. Raym. 958.

(*g*) "Every man that is to give his vote at a parliamentary election has a several and particular right in his private capacity as a citizen. The right that a man has to give his vote at an election of a person to represent him in Parliament, there to concur in the making of laws which

in Canada

See 7 Edw. VII.

10 Edw. VII. c.

88 s.s. 9 & 10.

Provided that such person had resided ~~within~~ ⁱⁿ the Province (h) for the nine months next preceding the time fixed by statute (or by a by-law authorized by statute) for beginning to make the assessment roll in which he is entitled to be entered as a person qualified to vote, (i) or

are to bind his liberty and property, is a most transcendent thing, and of a high nature, and the law takes notice of it: "Per Lord Holt, C.J., *Ashby v. White*, 2 Ld. Raym. 938. The privileges and immunities of citizens relate to those privileges and immunities which are in their nature *fundamental*, which belong of right to all citizens of free government, among which may be included the elective franchise as regulated by the laws or constitution: *Corfield v. Coryell*, 4 Wash. C. C. 381. See further notes (a) and (b) pp. 13-17, (z) p. 54, and (e) p. 78, to the Franchise Act of 1885, and (e) pp. 6-7, to the Franchise Act of 1886. The franchise is an important right and ought to be enjoyed by those who really possess it, and not by those who have it not: Per Cameron, C.J., in *Re Boyes*, 13 Ont. R. 6.

(h) The residence prescribed in this proviso is "within the Province," and may have been in any municipality or place within Ontario, up to either of the dates here mentioned. The assessor is not required to ascertain the period of the person's previous residence in the Province up to "the time fixed by statute for beginning to make the assessment roll;" but he is bound to enter the name of any person who delivers to him the affidavit prescribed by this Act, and of any person who, after reasonable enquiries, he finds to be qualified during the statutory period. The actual period of such person's residence may be questioned by impeaching his right to be entered on the voters' list either before the Court of Revision or County Judge.

(i) The Assessment Act, R. S. O. 1887, c. 193, s. 49, provides that the assessor in municipalities, other than

Rev. Stat.
c. 8.

had so resided ^{Canada} within ~~the Province~~ for the twelve months next preceding the time up to which a complaint may be made to the County Judge, under the Voters' Lists Act, or this Act, to insert the name of such person in the list: (k)

cities, towns and incorporated villages, which pass by-laws under s. 52, "shall begin to make his roll not later than the fifteenth day of February." If such municipalities pass by-laws regulating the period of assessment then the assessment is to be made between the first day of July and the thirtieth day of September. County Councils may pass by-laws under s. 54 for making the assessment between the 1st February and the 1st July; and the above dates will then be regulated by such by-laws. These two statutory periods of nine and twelve months will have the effect of throwing a large amount of work on the County Judge's Revision Court. The assessor in ordinary cases will be bound to count the nine months prior to the 15th February, *i.e.* 15th May of the preceding year. The voters' lists are usually posted in July or August, and the twelve months' provision will bring the qualifying period to some date in August of the preceding year, or about six months later than the assessor's period.

(k) The "time up to which a complaint may be made" is variable and will depend upon the date of the *posting up of the voters' lists in the clerk's office*, as prescribed by s. 13 of 52 Vic. c. 3, O. The time for appealing against the voters' lists commences to run from the date of posting the lists in the clerk's office and not from the date of his sending copies of the lists to the persons and officials named in the Act: *Re L'Original Voters' Lists*, 9 Pr. R. 425. Since the passing of this Act in 1888, and its coming into operation on the 1st January, 1889, the Voters' List Act has been repealed and a new Act substituted, 52 Vic. c. 3. The provisions respecting appeals to the County Judge are the same in both Acts.

And provided that such person was in good faith at the time fixed as aforesaid, a resident of, and domiciled in, the municipality in the list of which he is entered, (1) and is, at the time of tendering his vote, a resident of and domiciled within the electoral district, and had resided in the said electoral district continuously from the time fixed as aforesaid for beginning to make said roll, or for making such complaint, as the case may be.

Revised 1853
 Proviso, V.C. 2. s. 2
is for beginning to make
said roll or for making
such complaint as the
case may be,

A. A. M. may be resident in the municipi-
ality during 25/99
 Burton, C.J.O., Osler, MacLennan,
 Moss, Eister, J.J.A. p. 257.

The Voters' List of the Township of Sey-
 mour. Judgment in case stated by the
 Judge of the County Court of North-
 umberland and Durham referred to the
 by the Lieutenant-Governor in Council
 accordance with section 38 of the On-
 tario voters' list act. The questions arise
 that part of section 3 of the Ontario
 act which requires that a person
 qualified to vote at elections for the
 Assembly shall be at the time
 tendering his vote a resident of and
 domiciled within the electoral district and
 have resided in the said electoral district
 continuously from the time fixed as afore-
 said for beginning to make said roll or for
 making such complaint as the case may
 be. The time for beginning to make the
 roll of the township was on February 14,
 and in that year the last day for
 making complaint to the Judge of errors
 was that was October 15. Each of the
 whose votes are in question was
 from the electoral district and in
 from October 14, and for at least
 thereafter, having left Ontario
 to work as farm laborers in
 and having returned in Novem-
 ber. The question in each case was whether
 they could be said to have been
 in the electoral district continu-
 ously from the 14th October. The court
 was of opinion that the vot-
 ers were entitled to be on the
 roll, and that their absence from the dis-
 trict being fatal. Dymond for the
 respondents.

Temporary absence from the municipi-
 ty, notwith-
 standing absence in the

See 10 Edw. VII.
 C. 88. ss. 9 & 10.

kept for his exclusive
 period he went to
 here he remained two
 er. He remained in
 ck to London, and did
 est of the qualifying
 constructive residence in
 Beal v. Town Clerk of
 e residence there must
 intention is consistent
 abode at some future
 on, Bart. El. Cas. 120.
 nt from his residence
 t the qualifying period,
 of military discipline;
 Martin v. Hanrahan, 22
 effect overrules Rex v.
 men, which was ques-
 D. 254. See notes on
 p. 74, 76, and 97.

See 7 Edw. VII. c. 6
as to Clergymen
& School Teachers

Rev. Stat.
c. 8.

had so resided within ^{Canada} the Province for the twelve months next preceding the time up to which a complaint may be made to the County Judge, under the Voters' Lists Act, or this Act, to insert the name of such person in the list : (k)

cities, towns and incorporated villages, which pass by-laws under s. 52, "shall begin to make his roll not later than the fifteenth day of February." If such municipalities pass by-laws regulating the period of assessment then the assessment is to be made between the first day of July and the thirtieth day of September. County Councils may pass by-laws under s. 54 for m^t.
1st February and the 1st
then be regulated by suc
periods of nine and twelv
throwing a large amoun
Revision Court. The a
be bound to count the
February, i.e. 15th May of
lists are usually posted i
months' provision will bri
date in August of the pre
later than the assessor's pe

(k) The "time up to whi
variable and will depend
the voters' lists in the cler
52 Vic. c. 3, O. The time
lists commences to run fro
the clerk's office and not fr
of the lists to the persons
Re L'Original Voters' Lists
of this Act in 1888, and its
January, 1889, the Voters'
a new Act substituted, 52
ing appeals to the County

Wes" to hear old Trinity
incoming year.

No one can tell me how
custom of going to hear the
of Trinity Church on New
Eve originated. It is only
severated that it has always been
Usually thousands are in the
about Thames and Wals streets
Trinity Place, and the clamor
almost drowns the music of the
People come from far and near
If police are on hand, and Broad
is blocked until long past midnight
it was chiefly the sleepless care of
representatives of law and order
listened to the requiem of
streets were almost empty of
and the few hundred enchan
who, like myself, had followed
morial custom, took refuge un
lee of the colossal bulidings
crowd the stately old church
moss-grown graveyard. Light
faintly through the rich win
past them the snow whiten
like, with waving arms, an

And provided that such person was in good faith at the time fixed as aforesaid; a resident of, and domiciled in, the municipality in the list of which he is entered, (1) and is, at the time of tendering his vote, a resident of and domiciled within the electoral district, and had resided in the said electoral district continuously from the time fixed as aforesaid for beginning to make said roll, or for making such complaint, as the case may be.

Amended 1853
 Proviso. V.C. 2. s. 2
for beginning to make
the roll or for making
each complaint as the
case may be,

4. A person may be resident in the municipality within the meaning of this Act, notwithstanding occasional or temporary absence in the

Temporary absence not to disqualify. *See 10 Edw. VIII.*
See 10 Edw. VIII.
C. 88. ss. 9 & 10.

(1) The appellant had a bedroom kept for his exclusive use in Exeter. During the qualifying period he went to London in search of employment, where he remained two months and then returned to Exeter. He remained in Exeter three weeks and then went back to London, and did not return to Exeter during the rest of the qualifying period; *Held*, that he had not a constructive residence in Exeter during the qualifying period: *Beal v. Town Clerk of Exeter*, 20 Q. B. D. 300. To constitute residence there must be an intention to remain, but this intention is consistent with a purpose to change the place of abode at some future and indefinite day: *Miller v. Thompson*, Bart. El. Cas. 120. A militiaman was compulsorily absent from his residence attending training during a portion of the qualifying period, and could not leave without a breach of military discipline; *Held*, not entitled to the franchise: *Martin v. Hanrahan*, 22 Irish L. R. 452. This case in effect overrules *Rex v. Mitchell*, 10 East. 511, as to militiamen, which was questioned in *Atkinson v. Collard*, 16 Q. B. D. 254. See notes on "residence," Franchise Act of 1885, pp. 74, 76, and 97.

See 7 Edw. VIII. c. 6
as to Clergymen
& School Teachers

Means & includes, Officers, sailors, engineers, cooks, stewards, waiters, deck hands, & other persons employed upon any steamboat or sailing vessel during its navigation - See R.S.O. 1897, Ch. 9, s.

prosecution of his occupation as a lumberman, (a) mariner, or fisherman, or attendance as a student in an institution of learning in the Dominion of Canada; and such occasional or temporary absence shall not disentitle such person to be entered on the assessmer. roll or voter's list as a qualified voter, or to vote. (m)

11 (2).

(m) "We think that actual inhabitancy during every one of the 365 days is not necessary, and that it is sufficient if the claimant can make out a constructive inhabitancy. But in order to make out a constructive inhabitancy there must be an intention of returning after a temporary absence, and a power of returning, at any time, without breach of any legal obligation:" *Per Cave, J., Atkinson v. Collard*, 16 Q. B. D. 254. Where an inhabitant householder, qualified as a voter in N., left it and resided in another borough for fourteen weeks, it was held, on his return to N., that his claim to vote in N. was lost, as he had relinquished the franchise he possessed there by the break of residence: *Jeffrey v. Kitchener*, 7 M. & Gr. 99. Undergraduates of Oxford and Cambridge who occupy rooms in these colleges from which they are absent during the vacations, without the right to reside in or visit them, except by leave of the college authorities, cannot be held to have resided, or been inhabitants, or to have occupied premises for twelve months in the cities named: *Tanner v. Carter*, 16 Q. B. D. 231. "The authorities as to constructive residence have no application, as soon as it is shown that the occupier cannot return to the premises during part of the year, at his own option:" *Per Cave, J., Ibid.* Unmarried men who have fully severed the parental or home relation, and who have entered the world to labor for themselves, usually acquire a residence in the district where they are employed, if they are honestly pursuing their employment there, with no fixed residence elsewhere: *Allantown, Brightly on Elections*, 475.

(a) "Lumberman" means & includes, labouring men who work in shanties cutting, hauling &c, as well as those carrying on lumbering operations on their own account. *Madison, J. A. Ont. Gaz. Vol. 31, p. 55, (14 Jan'y 1895)*

5. No person shall be entitled to be marked or entered by the assessor as a qualified voter as hereinafter mentioned, or shall be entered on a list of voters, in respect of residence in a municipality where he is in attendance as a scholar or student at any school, university or other institution of learning, unless he has no other place of residence entitling him to vote. (n)

See 10 Edw. VII. c. 88 s. 10
Students at college, etc. *New R.D.O.*

1899. c. 1.

22. s. 16.

See 4 Edw. VII. c. 23, 3, 25. and

Substituted by 10 Edw. VII. c. 88.

s. 10.

See *Platting Act*
48 Edw. VII. c. 3.

The mere fact that a person is willing to swear, and does swear, that he considers the district his home, is not sufficient to entitle him to vote, if the facts and circumstances satisfy the Court that his home is elsewhere: *Ibid.* In the ancient rights of voting by reason of "inhabitaney," that term was considered as implying a *bona fide* residence: *Elliott on Elections*, 200. See also note (l) p. 107 ante.

(n) Articled clerks to solicitors are not within this exception, as they are bound by contract and must be assumed to have no intention to return: *Ford v. Drew*, 5 C. P. D. 59. Where the absence from the residence is compulsory for a portion of the qualifying period, as in the case of Oxford and Cambridge undergraduates, no right to vote exists: *Tanner v. Carter*, 16 Q. B. D. 231. Under the election laws of the United States a student at college who has a home elsewhere, and resides at the institution for the sole purpose of education, does not thereby acquire the right to vote in the district in which the college is situated: *Allentown*, *Brightly on Elections*, 468. It was never pretended that the student acquired a residence at the place of the college, so as to become a qualified elector, liable to taxation, and to the performance of municipal duties. The parental home, or the locality from whence the student came, was accepted as the district in which he was entitled to vote: *Ibid.* The fact that a man came into the place where he claims a residence for the sole purpose of pursuing his studies at a school or

Ans R.S.O.
Ch. 9. s. 10 (1-7)
See Ans 108d.w. 111.
 Disqualifica-
 tions. 111.
 Prisoner.

6. No person shall be entitled to be marked by the assessor as qualified, or shall be entered on a list of voters, or shall vote, who at the time of marking or entering or voting (as the case may be) is a prisoner in a gaol or prison undergoing punishment for a criminal offence; (o) or

college there situate, and has no design of remaining there after his studies terminate, is not necessarily inconsistent with a legal residence, or want of residence in such place. This is to be determined by all the circumstances of the case. Among such circumstances, the intent of the party, the existence or absence of other ties or interests elsewhere, the dwelling-place of his parents, or, in the case of an orphan just of age, of such near relatives as he had been accustomed to make his home with during his minority, would, of course, be of the highest importance: *Putman v. Johnson*, 10 Mass. 488.

(o) A convict felon is disqualified by the common law of Parliament: *Colchester*, 1 Peck. 508. The attain of felony is a disqualification: *Great Grimsby*, 1 Peck. 509 (n). A person in gaol for a portion of the qualifying period is not *sui juris*, and cannot be registered: *Powell v. Guest*, 11 L. T. N. S. 599. If a person is imprisoned he is not complying with the requisites of the statute. I will assume he had a house, and that he had a wife and family, and the *animus revertendi* as soon as his imprisonment might be over; but during the time he was in prison he had not the liberty to return, by reason of a wrongful act on his part leading to such a confinement as prevented his being bodily present: *Per Erle, C.J., Ibid.* Imprisonment on civil process is not a disqualification: *Ibid.* Nor is an imprisonment for non-payment of a fine imposed upon a summary conviction: *Regina v. Holbeck*, 16 Q. B. 404.

is a patient in a lunatic asylum ; (p) or is maintained, in whole or in part, as an inmate receiving charitable support or care in a municipal poor house, or house of industry, or as an inmate receiving charitable support or care in a charitable institution (q) receiving aid

(p) Lunatics are disqualified from voting by the common law of Parliament : 4 Co. R. 124. Lunatics so long as they have not understanding ; but in lucid intervals they are entitled to vote : *Hudson on Elections*, 160. The vote of " a melancholy man and scarce compos mentis " was held good : *Wendover, Bening's Case*, 13 Com. J. 42 ; " being ' scarce compos mentis ' admits that he was just in a situation to give his vote : " *Heywood on Elections*, 166. One " so disordered in his senses that he could not repeat the oaths : " *Held*, disqualified : *Oxfordshire*, 27 Com. J. 177 ; so also, one " incapable of declaring his vote : " *Malsbury*, 20 Com. J. 77.

(q) Persons who, from age and other causes, are unable to maintain themselves by their own exertions, and are occupants of an almshouse, are disqualified by the law of Parliament from being registered as voters : *Edwards v. Lloyd*, 20 Q. B. D. 302. Persons who are employed by way of parochial relief in breaking stones, and are paid out of parochial funds, are disqualified from voting : *Magurrill v. Overseers of Whitehaven*, 16 Q. B. D. 242. A receipt of alms from a private charity, showing poverty and a state of dependence, is a disqualification : *Cook's Case*, 2 C. P. D. 26. Application by a claimant for assistance for the interment of a deceased member of his family during the qualifying year, will disqualify the claimant, though otherwise entitled to the franchise : *Kerr v. Chambers*, 20 Irish L. R. 207. A person excused by the justices or municipal authorities from paying taxes on account of his poverty is not a receipt of alms, which would disqualify : *Mashiter v. Dunn*, 6 C. B. 30.

from the Province under any statute in that behalf. (*r*)

New R.S.O.
1857. ch.
9. s. 12. Indians.
Enfranchised.

7. (1) Enfranchised Indians, whether of whole or part Indian blood, shall, like other persons, be entitled to vote without having a property qualification.

Unenfranchised
qualified.

(2) Unenfranchised Indians, of whole or part Indian blood, not residing among Indians or on an Indian reserve, shall, in lieu of legal enfranchisement, have the same property qualification as heretofore in order to entitle them to vote. (*s*)

Not qualified.

(3) Unenfranchised Indians, of whole or part Indian blood, residing among Indians, or on an Indian reserve, shall not be entitled to vote.

Qualification
required in
unorganized
townships.

8. The same property and other qualifications as heretofore are continued with respect to voters in such of the municipalities, townships, and places in the Electoral Districts of Algoma East, Algoma West, East Victoria, North Hastings, North Renfrew, South Renfrew, Muskoka

(*r*) The charitable institutions receiving aid from the province are mentioned in R. S. O., 1887, c. 248.

(*s*) The property qualification heretofore required of such Indians is as follows:—Owners, tenants, or occupants of real property in cities or towns of the value of \$200, or in villages or townships of the value of \$100: R. S. O., 1887, c. 9, s. 7, *sixthly*.

and Parry Sound as shall from time to time have no assessment roll or voters list. (t)

9. (1) The assessor shall place on the assessment roll, as qualified to be a voter, (u) the name of every male person who delivers or causes to be delivered to the assessor, an affidavit

Who may be placed on assessment roll as voters.

(t) The qualifications heretofore required of voters in the unorganized districts referred to, are prescribed by R. S. O., 1887, c. 9, s. 7, *seventhly*, as follows:—"Every male person of the full age of twenty-one years, being a subject of Her Majesty by birth or naturalization, and being not otherwise disqualified, who is at the time of the election a resident of and domiciled within the electoral district for which he claims to vote, and is actually and *bona fide* owner of real estate in such electoral district of the value of two hundred dollars or upwards, or who is at the time of the election a resident householder of such place, and has been such owner or householder for the six months preceding the election. (a) A person is not an owner within the meaning of the said provision designated seventhly, where the land of which he claims to be owner has never been granted or patented by the Crown; and a person who is a mere lodger or boarder in a house is not a "resident householder" in respect of such house. (b) In any part of the electoral districts of Algoma West, Algoma East, Muskoka, or Parry Sound, in which there is no assessment roll or voters' list, residence by an owner shall be necessary for the same period as residence by a householder, in order to qualify a voter." A person qualified to vote in an unorganized township has the right to vote at any polling place in the unorganized townships of such electoral district, and he is not restricted to the township in which his property is situated: *Muskoka and Parry Sound*, 1 Ont. El. Cas. 197.

(u) It is a maxim of the law, admitting of few if any exceptions that every duty laid upon a public officer for the

Manhood
franchise.

signed by such person in the form or to the effect set forth in Form A, (v) appended hereto, if the facts stated are such as entitle such person to be placed thereon. (w)

Affidavit.

(2) The affidavit may be made before any assessor or justice of the peace, commissioner for taking affidavits, or notary public; and every such officer shall, upon request, administer an oath to any person wishing to make the affidavit.

Enquiries to
be made by
assessor.

10. The assessor shall also make reasonable enquiries in order to ascertain what persons resident in his municipality, or in the section of

benefit of a private person is enforceable: *Butterworth v. Hoe*, 112 U.S. 50. Such an officer refusing to perform his duty is liable to an action: *Griffin v. Rising*, 11 Met. 339. The defence of mistake of duty and honest intentions will not excuse the officer: *Amy v. Supervisors*, 1 Wall, 136.

(v) New forms of affidavit have been prescribed by the Act, 52 Vic. c. 5, O. *post*. The claim to be entered on the roll cannot be made until after the expiration of the statutory period of nine months next preceding the time for "beginning to make the assessment roll." A claim to be registered as a voter was supported by a declaration dated six days before the expiration of the statutory period of residence; *Held*, that the claim was a nullity, and that the claimant was not duly qualified: *Jones v. Kent*, 22 Q. B. D. 204.

(w) Where, among other requirements, the statute expressly required a person to claim to be registered as a voter, and such person neglected to send in a claim, but his name had appeared on the published list; *Held*, that he was not entitled to have his name retained on the list of voters: *Hersant v. Halse*, 18 Q. B. D. 412.

the municipality in respect of which the assessor is acting, are entitled to be placed on the roll as qualified to be voters under this Act, (x) and shall place such persons on the roll as qualified to be voters without the affidavit.

11. (1) Opposite the name of every person qualified to be a voter, the assessor shall in column 4 (mentioned in section 14 of the Assessment Act and (in addition to the letters, if any, required to show the qualification of such person

Entry by assessor under Rev. Stat. c. 193, s. 14.

(x) This and s. 6, give a new power to assessors, and one not heretofore given to any but judicial officers, viz., to determine, on affidavit evidence, or parol representations, whether a person is, or is not, "entitled to be marked or entered by the assessor as a *qualified voter*." By ss. 9-11 the assessor is to place on the assessment roll the names of persons who prove to him by affidavit the possession of the several qualifications specified therein, and also the names of those whom he finds, on enquiry, to be "*qualified to be voters under the Act*." The enquiries the assessor has to make, and to be satisfied respecting, are:—whether the person enquired about has the statutory qualifications prescribed by this Act, and is not disqualified by the statutory disqualifications mentioned in ss. 5 and 6 of this Act. These large powers give the assessor the right to adjudicate on the qualifications of persons as to age, sex, alienage, residence, crime, lunacy, receipt of alms, or office, which are mixed questions of law and fact, hitherto reserved for the County Judge in the Revision Court. See the editor's "*Manual on Voters' Lists*," p. 6-7: The presumption of law is that all the resident inhabitants of this Province are British subjects: *Reg. ex. rel. Carroll v. Beckwith*, 1 Pr. R. 284.

See 53 V.C. 2.5.1 in respect to municipal elections) (y) write in capitals the letters M. F., meaning thereby, "Manhood Franchise," and shall number all such names.

(2) Opposite every such name the assessor shall also in column 8, mentioned in section 14 of the Assessment Act, enter

(a) In the assessment roll of a city, town, or village, the residence of such person by the number thereof (if any), and the street or locality whereon or wherein the same is situate;

(y) The municipal electors are men, or unmarried women, or widows, qualified as follows:

53 V.C. 42

*R.S.O. 1897, c.
223. S. 86 uses
3 Edw. VII. c. 19.
S. 86 also.*

PERSONS ASSESSED
AS—

RESIDENCE IN
MUNICIPALITY.

ASSESSED VALUE.

(1) Freeholders

Residents and
Non-residents..

(Cities, \$400. *over 3000 : 400*
Towns, \$300. *2000, 1200.*
Villages, \$200.
Townships, \$100.

(2) Householders and
Tenants

Residents for one
month before
the Election ..

Residents contin-
uously since
final revision of
the Assessment
Roll or last day for
complaint.

\$400. *from some table of
calling or proportion.*

(3) Income

Residents with
father or
mother on farm
for 12 months
prior to (Assess-
or's return of
the Assessment
Roll) and when

Farm assessed
at sufficient
amount to give
father and each
son a vote at the
above ratio of
qualification.

(4) Farmers' Sons ..

(a) Father owner
of farm

(b) Mother owner
of farm

*Population of Towns
to be determined by
Census & last General
Census of 1891*

*Person must be
actually occupied by
owner, or be not less than
20 acres -*

7 days. Roll or last day for complaint.

*Occasional or temporary absence from farm for a time or times not exceeding in whole
6 mo. of the 12 shall not disentitle F.S. to vote. 3 Edw. VII. c. 19. S. 86.*

(b) In the assessment roll of a township the concession wherein, and the lot or part of a lot whereon, such person resides ;

And in all cases, any additional description, as to locality or otherwise, which may be reasonably necessary to enable the residence to be ascertained and verified.

12. The assessor shall, at the foot of his assessment roll, after he has completed the same, make affidavit before a justice of the peace in the words, or to the effect following :—

Affidavit by
assessor.

"I have not entered any name in the above roll, or improperly placed any letter or letters in column 4 opposite any name, with intent to give to any person not entitled to vote, a right of voting.

"I have not intentionally omitted from the said roll the name of any person whom I believe entitled to be placed thereon, nor have I, in order to deprive any person of a right of voting, omitted from column 4 opposite the name of such person, any letter or letters which I ought to have placed there."

13. (1) Complaints of persons having been wrongfully entered on the roll as qualified to be voters, or of persons not having been entered thereon as qualified to be voters, who should have been so entered, may, by any person entitled to be a voter, or to be entered on the voters' list in the municipality or in the electoral district in which the municipality is situate, (2) be made to

Complaints
respecting
list.

(2) A notice of objection in accordance with the parliamentary form, will be good as to the voter's right to be on the municipal register : *Jacob's Case*, 12 Q. B. D. 376.

the Court of Revision as in the case of assessments, or the complaints may be made to the County Judge under the Voters' Lists Act.

(2) Any person who since the day upon which by statute or by by-law the assessment roll is returnable to the clerk, and before the time for appealing against the voters' list or of giving notice of application to the Judge to have the names of persons entered upon the voters' list under the Voters' Lists Act shall have expired, has become possessed of the qualifications entitling him to vote, shall be entitled to give, or any person whose name is on the list or who has the qualification entitling him to have his name entered thereupon, may give the requisite notice or make application to the Judge to have the name of such first-mentioned person entered upon the voters' list. (a)

Rev. Stat.
c. 8.

(a) This provision gives a right of appeal to persons becoming qualified between the dates of the return of the assessment roll, and of giving notice of complaint for the revision of the voters' lists, and might be constructed as apparently suggesting the inference that persons who were qualified to be entered by the assessor, but who, either by their non-claim or his not ascertaining them, were not so entered, could not thereafter be entered on the voters' list by any proceeding in the nature of a complaint under the prior sub-section of this section of the Act. But by sub-s. 1 of s. 10 of the Voters' List Act of 1839 (52 Vic. c. 3) it is provided that upon the revision of the voters' list no person shall be disentitled to have his name entered on the list, either by reason of his not sending an affidavit to the

14. The voters' list prepared under this Act for any municipality, after being certified by the Judge, shall be used at any election thereafter in such municipality for a member of the Legislative Assembly; and in case of a municipality for which there is no such voters' list under this Act capable of being used at such election, the voters' list heretofore provided for shall be used.

List when certified to be used at elections thereafter.

15. (1) Every person who, at an election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at an election, applies at the same election for a ballot paper in his own name shall, on conviction thereof, be liable to imprisonment for a term not exceeding two years with hard labour in addition to any other punishment to which he is liable for the offence. (b)

Penalty for personation.

assessor, or by reason of his name not having been entered on the assessment roll.

(b) A person who wilfully votes at an election for a member of Parliament without having all the qualities required by law to entitle him to vote, is liable to a penalty and costs: *Perry v. Adams*, 8 L. C. Jur. 165. The defendant's name appeared on the voters' list, but before the election he lost his right to vote, and voted at the election without having the qualifications prescribed by law; *Held*, that he was guilty of a criminal offence, and was rightly indicted as for a misdemeanor: *Regina v. Sturdy*, 23 Can. L. J. 87.

This section is not to apply to a person who applies for a ballot paper, believing that he is the person intended by the name entered in the voters' list in respect of which he so applies.

(2) Every person who aids, abets, counsels, or procures the commission of any such offence, shall be liable to be indicted and punished as a principal offender.

FORM A.

[Repealed by 52 V. c. 5, O., and other forms substituted.]

52 VICTORIA—CHAPTER 5.

(Ontario.)

An Act respecting Oaths under the Manhood Suffrage Act.

[Assented to 23rd March, 1889.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. (1) The oaths to be taken by voters, or persons claiming to be voters, under *The Manhood Suffrage Act*, shall be those set forth in the schedule hereto in Forms C, D, E, F, G, H, I and K instead of those mentioned in section 91 of the Ontario Election Act. (c) The Forms A and B in the said schedule are substituted for the form given in the schedule to *The Manhood Suffrage Act* for the purposes of section 9 of the said Act. (d)

Oaths under
51 V. c. 4.

(c) The forms here prescribed are to be used at the election, and are not necessary for the purposes of the revision of the voters' lists.

(d) The enacting clause, s. 3 of the Act of 1888, prescribing the qualifications for entry on the assessment roll, required that the person whom the assessor was to enter on

Oaths at the election.

(2) Every person entered on a voters' list as being a voter under *The Manhood Suffrage Act*, shall, when voting at any election under the Ontario Election Act, and if required to take any oath or affirmation under the provisions of said section 91 of said last mentioned Act, be at liberty to select for himself for that purpose either of the said forms C, D, E, F, G, H, I and K, whatever may be the description either in the voters' list or assessment roll as to the qualification or character in respect of which he is entered upon the list or roll.

Oaths in districts to which 51 V. c. 4, does not apply.

2. In any electoral district, or part of any electoral district in which *The Manhood Suffrage Act* is not in force, the voters' lists to be used shall be prepared in the same manner as they were prior to the passing of this Act, and the oaths to be taken in such electoral or part of electoral districts shall be those provided for by the Ontario Election Act. (e)

his assessment roll should be "of the full age of twenty-one years," but the form given in the schedule to the Act varied from its provisions. A person must be of full age at the qualifying date prior to the revision of the list: *Hargreaves v. Hopper*, 1 C. P. D. 195. See also *Powell v. Bradley*, 18 C. B. N. S. 65, referred to in note (a) p. 55 of the Franchise Act of 1885.

(e) The only case to which this section seems applicable is the case of unenfranchised Indians, referred to in s. 7 of the *Manhood Suffrage Act* of 1888.

SCHEDULE.

FORM A.

FORM OF AFFIDAVIT BY PERSON CLAIMING TO BE PLACED ON
THE ASSESSMENT ROLL AS A VOTER.

I, _____, make oath and say
as follows:

I am a British subject (by birth, or naturalization), (f)
and I have resided in this Province for the nine months
next preceding the _____ day of _____ in the present year
(the day to be filled in here is the date on which by statute or
by-law the assessor is to begin making his roll.)

I was at the said date in good faith a resident of and
domiciled in (giving name of the municipality for which the
assessor is making his roll), and I have resided therein con-
tinuously from the same date, and I now reside therein at
(here give the deponent's residence by the number thereof (if any)
and the street or locality whereon or wherein the same is situated,
if in a city, town or village. If the residence is in a township,
give the concession wherein, and the lot or part of lot whereon
it is situated).

I am of the full age of 21 years, and am not disqualified
from voting at elections for the Legislative Assembly of
Ontario.

Sworn before me at _____ in the _____
county of _____ this _____ day }
of _____ 18 . } (Signature of Voter).
(Signature of J. P., etc.)

(This oath may be taken before any assessor or any justice
of the peace, commissioner for taking affidavits, or notary
public.)

(f) Persons born in Hanover before the accession of
Queen Victoria to the throne of the United Kingdom,
though residents in England, are aliens: *Isaacson v. Durant*,
17 Q. B. D. 54.

FORM B.

FORM OF AFFIDAVIT FOR SAME PURPOSE AS FORM A.

But where the person has been temporarily absent from the municipality.

I, _____, make oath and say as follows:

I am a British subject (by birth, or naturalization), and I have resided in this Province for the nine months next preceding the _____ day of _____ in the present year *(the day to be filled in here is the date on which by statute or by-law the assessor is to begin making his roll)*

I was at the said date in good faith a resident of and domiciled in *(giving name of municipality for which the assessor is making his roll)*, and have resided therein continuously from the said date, and I now reside therein at *(here give the deponent's residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated if in a city, town or village. If the residence is in a township, give the concession wherein and the lot or part of lot whereon it is situated).*

And I have not been absent from this Province during the said nine months, except occasionally or temporarily in the prosecution of my occupation as *(mentioning as the case may be a lumberman, or mariner, or fisherman, or in attendance as a student in an institution of learning in the Dominion of Canada, naming the institution if absent as student.)*

I am of the full age of 21 years, and am not disqualified from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at _____ in the
county of _____ this _____ day
of _____ 18 . _____
(Signature of J. P. or Commissioner, etc.) *(Signature of Voter).*

(The oath may be taken before any assessor or any justice of the peace, commissioner for taking affidavits, or a notary public.)

Vict.

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/ Edw. VII. C. 2.

"Section 144 of The Ontario Voters' Lists Act is amended by inserting therein the following subsection (4a):

(4a) "Anyone who will be of ^{the} age of twenty-one years, within 30 days from the day fixed for hearing appeals to the County Judge and who possesses the other necessary qualifications is entitled him to be entered in the Voters' List shall have the right to apply to the Judge to have his name entered and inserted in the Voters' List as entitled to vote at Municipal Elections and Elections to the Legislative Assembly but nothing in this subsection contained shall be construed to confer upon any person the right to vote who is not of the full age of twenty-one years."

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 62 V. (2) C. 3.
 62 V. (1) C. 3.
 63 V. 2. 2.
 1 Ed. VII. c. 2.

61 V. C. 3. S. 1. (1898) 1. Section 16 of the Ontario Voters List Act, being chapter 7 of the Revised Statute of Ontario 1897 is repealed and the following substituted therefor: -

"16. If on complaint or appeal to strike out of the list the name of a person entered therein as a voter, the judge, from the evidence produced and given before him, is of the opinion that the person is entitled to be entered on the list in any character or because of property or qualification other than that in which he is already entered in the list, or because he has resided in the electoral district wherein he is then residing continuously for twelve months next preceding the last day on which complaint could be made to the county judge to strike his name out of the said list, even although he may not then be a resident of the municipality wherein said voter list count is then being held, but who is resident in the said electoral district and also is possessed of the qualifications entitling him to vote under the provisions of the Manhood Suffrage Act, and is not already entered on any voter list of any other municipality within said electoral district, the judge shall not strike the name of the person from the list, but shall make such corrections in the list as the evidence in his opinion warrants; with respect to the right character and qualifications of the person to be a voter, and shall note upon the voters' list the residence of such person at the time of the revision of such list."